

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Chabbetay Sabbagh and Ester Sabbagh, (Claimants) vs. First Madison Securities, Inc., David Polushkin, Michael Roth, and Amir Sabetian, (Respondents)

Case Number: 01-00091

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Chabbetay Sabbagh and Ester Sabbagh, hereinafter collectively referred to as "Claimants": Max Markus Katz, Esq., Max Markus Katz, P.C., New York, NY.

Respondent, First Madison Securities, Inc. ("First Madison"), did not make an appearance in this matter.

Respondents, David Polushkin ("Polushkin"), Michael Roth ("Roth"), and Amir Sabetian ("Sabetian"), appeared *pro se*.

CASE INFORMATION

Statement of Claim filed on or about: January 3, 2001.

Claimants signed the Uniform Submission Agreement: December 10, 2000.

First Madison did not file a Statement of Answer or sign a Uniform Submission Agreement.

Statement of Answer filed by Polushkin on or about: February 21, 2001.

Polushkin signed the Uniform Submission Agreement: February 21, 2001.

Roth did not file a Statement of Answer or sign a Uniform Submission Agreement.

Statement of Answer filed by Sabetian on or about: February 13, 2001.

Sabetian signed the Uniform Submission Agreement: February 13, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: mismanagement of account; negligence; churning; unauthorized transactions and use of account; and unsuitability of investments. Claimants' claim involved unspecified financial products.

Unless specifically admitted in his Answer, Polushkin denied the allegations made in the Statement of Claim and asserted the following defenses: Polushkin inherited Claimants' account when their previous broker resigned, and Claimants' account was already on margin at the time; Claimants called Polushkin at least 50 - 100 times during a three or four month period to make purchases in speculative investments; Claimants told Polushkin that they were aware of the risks associated with the investments made in their account; Polushkin advised Claimants to close their margin account, but Claimants refused to do so; and most of the trades executed in Claimants' account while Polushkin was their broker were unsolicited trades.

Unless specifically admitted in his Answer, Sabetian denied the allegations made in the Statement of Claim and asserted the following defenses: at no time did Sabetian make any unauthorized transactions in Claimants' account; Claimants were pleased with their account and with Sabetian until his resignation; Sabetian had no part in any of the damages that Claimants have set forth; Sabetian explained to Claimants what the consequences were for each transaction made in their account; when the authorized trades were placed for Claimants, they were aware of the risks involved; on numerous occasions, Sabetian convinced Claimants not to make certain investments, or to purchase fewer shares of certain investments, because he felt that they were too "high risk" for Claimants; Claimants were aware of the risks and interest involved in a margin account; Claimants were completely aware of the commissions and fees that applied to each transaction in their account; and all trades performed by Sabetian during the period of time in question were legal and were done with the full knowledge of Claimants.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$105,773.15; legal fees in the amount of \$35,222.50; the costs of filing this arbitration in the amount of \$1,425.00; and all costs and legal fees necessitated by this proceeding.

Polushkin did not make any relief requests in his Statement of Answer.

Sabetian requested that this case be dismissed against him, and that his record be set clean.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that First Madison has been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without First Madison present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

First Madison and Roth did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are hereby dismissed in their entirety.
2. All other requests for relief are hereby denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. In this matter, First Madison Securities, Inc. is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= Waived
Hearing process fee	= Waived

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: July 12, 2001	1 session

Four (4) Hearing sessions x \$1,125.00	= \$4,500.00
Hearing Dates: August 21, 2001	2 sessions
August 22, 2001	2 sessions
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Total Forum Fees	= \$5,625.00

1. The Panel has assessed \$2,812.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$937.50 of the forum fees against Polushkin.
3. The Panel has assessed \$937.50 of the forum fees against Roth.
4. The Panel has assessed \$937.50 of the forum fees against Sabetian.

Fee Summary

1. Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,812.50
Total Fees	= \$3,112.50
Less payments	= \$1,425.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,687.50
2. First Madison and hereby is solely liable for:

Member Fees	= \$1,500.00
Total Fees	= \$1,500.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,500.00
3. Polushkin be and hereby is solely liable for:

Forum Fees	= \$ 937.50
Total Fees	= \$ 937.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 937.50
4. Roth be and hereby is solely liable for:

Forum Fees	= \$ 937.50
Total Fees	= \$ 937.50
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 937.50

5. Sabetian be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 937.50
<u>Total Fees</u>	= \$ 937.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 937.50

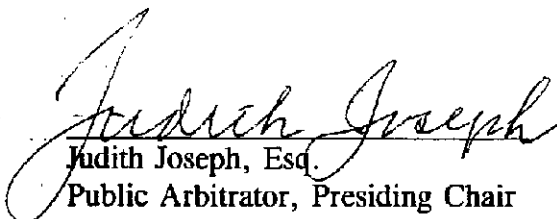
All balances are due and payable to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Judith Joseph, Esq.	-	Public Arbitrator, Presiding Chair
Carole S. Tamarkin	-	Public Arbitrator
Edith M. Gunn	-	Industry Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Judith Joseph, Esq.
Public Arbitrator, Presiding Chair

9/21/01
Signature Date

Carole S. Tamarkin
Public Arbitrator

Signature Date

Edith M. Gunn
Industry Arbitrator

Signature Date

October 5, 2001
Date of Service (For NASD office use only)

ARBITRATION PANEL

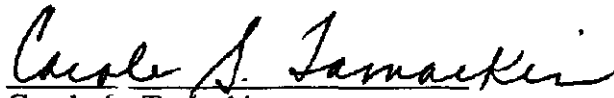
Judith Joseph, Esq.	-	Public Arbitrator, Presiding Chair
Carole S. Tamarkin	-	Public Arbitrator
Edith M. Gunn	-	Industry Arbitrator

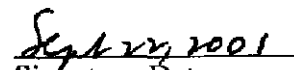
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Judith Joseph, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Carole S. Tamarkin
Public Arbitrator


Signature Date

Edith M. Gunn
Industry Arbitrator

Signature Date

October 5, 2001
Date of Service (For NASD office use only)

ARBITRATION PANEL

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Carole S. Tamarkin	-	Public Arbitrator
Edith M. Gunn	-	Industry Arbitrator

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Judith Joseph, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Carole S. Tamarkin
Public Arbitrator

Signature Date

Edith M. Gunn

Edith M. Gunn
Industry Arbitrator

September 25, 2001

Signature Date

October 5, 2001
Date of Service (For NASD office use only)