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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

W.R. Timmerman and Doris G. Timmerman, Claimants

Case Number: 01-00959

Josephthal & Company, Inc., Respondent

Hearing Site: Houston, Texas

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**REPRESENTATION OF PARTIES**

Claimants, W.R. Timmerman and Doris G. Timmerman, hereinafter collectively referred to, as "Claimants" were pro se.

Respondent, Josephthal & Company, Inc., hereinafter referred to as "Respondent" were represented by Mike Brown, Esq., of Figari, Davenport, & Graves located in Dallas, Texas.

**CASE INFORMATION**

Statement of Claim filed: March 15, 2001.

Claimants signed the Uniform Submission Agreement: February 14, 2001

Statement of Answer filed by Respondents on or about: May 17, 2001

Respondent, signed the Uniform Submission Agreement: May 4, 2001

**CASE SUMMARY**

Claimants asserted the following causes of action: failure to supervise, misrepresentation, non-disclosure. These alleged claims relate to the securities investments of Claimants.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants fail to state a claim for which relief may be granted, Claimants assumed the risk, waiver, ratification, and laches, failure to state fraud with requisite particularity, Claimants willfully ratified the trades, losses, if any, were the result of unforeseen market fluctuations.

**RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$124,677.00
Punitive Damages	\$ 2,000.00
Interest	\$ Unspecified
Attorneys' Fees	\$ Unspecified

Other Costs	\$ Unspecified
Respondent requested that the claims against them be dismissed in their entirety	

## 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 W.R. Timmerman and Doris G. Timmerman Trusts claims against Josephthal & Company Inc. are dismissed in their entirety.
2. Each party shall bear their own costs and attorney's fees.
3. Any and all relief not specifically addressed herein, including punitive damage is denied.

**RELIEF REQUESTED**

**Pursuant to the Code, the following fees are assessed:**

## Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:  
Initial claim filing fee = \$300.00

## 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. Accordingly, Josephthal & Company Inc. is the Respondent.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

## Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with Panel @ \$1,125.00 = \$2,250.00  
Pre-hearing conference: September 15, 2001 1 session  
June 14, 2002 1 session

Three (3) Hearing sessions @ \$1,125.00		= \$3,375.00
Hearing Dates:	February 26, 2002	1 sessions
	July 11, 2002	2 session

<b>Total Forum Fees</b>	<b>= \$5,625.00</b>
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1. The Panel has assessed \$3,375.00 of the forum fees to W.R Timmerman and Doris Timmerman Trust Jointly & Severally.

2. The Panel has assessed \$2,250.00 of the forum fees to Josephthal & Company Inc.

**Fee Summary**

1. Claimants W.R. Timmerman & Doris Timmerman Trust are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 3,375.00</u>
Total Fees	= \$3,675.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,250.00

3. Respondent Josephthal & Company is solely liable for:

Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	<u>= \$ 2,250.00</u>
Total Fees	= \$ 6,850.00
<u>Less payments</u>	<u>= \$ 4,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,250.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Bertrand C. Moser, Esq.	-	Public, Presiding Chairperson
Donald K. Eckhardt, Esq.	-	Public Arbitrator
Thomas H. Griffin	-	Non-Public Arbitrator

**Concurring Arbitrators' Signature**

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Bertrand C. Moser, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Donald K. Eckhardt, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Thomas H. Griffin  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution, Inc.  
Arbitration No. 01-00959  
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Public Arbitrator, Presiding Chairperson

  
Signature Date

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Public Arbitrator

Signature Date

Thomas H. Griffin  
Non-Public Arbitrator

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Thomas H. Griffin	-	Non-Public Arbitrator

Concurring Arbitrators' Signature

Bertrand C. Moser, Esq.  
Public Arbitrator, Presiding Chairperson



Donald K. Eckhardt, Esq.  
Public Arbitrator

Signature Date

8/22/02

Signature Date

Thomas H. Griffin  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

Revised May 2002

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Public Arbitrator, Presiding Chairperson

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Revised May 2002