

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

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In the Matter of the Arbitration Between:

Nina H. Katzin vs Interfirst Capital Corporation, Yossi Attia and Brett Briggs

Case Number: 01-02048

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Nina H. Katzin

Mitchell J. Albert, Esq.  
Albert & Will, LLP  
Torrance, California

For Respondents:

Interfirst Capital Corporation

Kenneth F. Nye, Esq.  
Law Offices of Kenneth F.  
Nye  
Ft. Collins, Colorado

Brett S. Briggs

Kenneth F. Nye, Esq.  
Law Offices of Kenneth F.  
Nye  
Ft. Collins, Colorado

First Allied Securities, Inc.

Kenneth F. Nye, Esq.  
Law Offices of Kenneth F.  
Nye  
Ft. Collins, Colorado

Douglas A. Wright

Kenneth F. Nye, Esq.  
Law Offices of Kenneth F.  
Nye  
Ft. Collins, Colorado

Bradley A. Phillips

Kenneth F. Nye, Esq.  
Law Offices of Kenneth F.  
Nye  
Ft. Collins, Colorado

MHK Investments, Inc.

Kenneth F. Nye, Esq.  
Law Offices of Kenneth F.  
Nye  
Ft. Collins, Colorado

Yossi Attia

Michael D. Donahue, Esq.  
Holland & Knight, LLP  
Los Angeles, California

### CASE INFORMATION

Statement of Claim filed: March 22, 2001.

Claimant's Uniform Submission Agreement signed: April 18, 2001.

Statement of Answer filed by Respondents Interfirst Capital Corporation, Brett S. Briggs and Yossi Attia: June 19, 2001.

Respondent Interfirst Capital Corporation's Uniform Submission Agreement received: June 20, 2001.

Respondent Brett S. Briggs' Uniform Submission Agreement signed: June 19, 2001.

Respondent Yossi Attia's Uniform Submission Agreement signed: June 20, 2001.

Amended Statement of Claim filed: June 24, 2001.

Response of Respondents Interfirst Capital Corporation, First Allied Securities, Inc., Yossi Attia, Brett S. Briggs, Douglas Wright, Bradford Phillips, and MHK Investments, Inc. to Claimant's Amended Statement of Claim filed: July 12, 2002.

### CASE SUMMARY

Claimant alleged the following causes of action:

1. Breach of contract;
2. Breach of fiduciary duty;
3. Unauthorized trading;
4. Churning;
5. Suitability;

6. Margin Calls;
7. Misrepresentation;
8. Omission; and
9. Violation of NASD rules and applicable securities laws.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested \$128,000.00 in compensatory damages, interest, punitive damages as determined by the Panel and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and costs.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents First Allied Securities, Inc., Douglas Wright, Bradford Phillips, and MHK Investments, Inc. did not file with NASD Dispute Resolution a properly executed submission agreements. However, all said Respondents are required to submit to arbitration and having answered the claim are bound by the determination of the Panel on all issues submitted.

On June 24, 2002, Claimant filed a Motion to Amend Statement of Claim pursuant to the NASD Code of Arbitration Procedure ("Code") Rule 10328(b). The Panel granted the motion on August 12, 2002.

On September 11, 2002, the Panel dismissed without prejudice Respondents First Allied Securities, Inc. and MHK Investments, Inc. pursuant the parties' signed stipulated order.

On October 23, 2002, Claimant and Claimant's counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On October 9, 2002, counsel for Respondents Interfirst Capital Corporation, Yossi Attia and Brett S. Briggs signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On November 11, 2002, Claimant dismissed with prejudice Respondent Yossi Attia pursuant to the terms of a confidential settlement agreement.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents Interfirst Capital Corporation and Bradley A. Phillips are jointly and severally liable to and shall pay Claimant the sum of \$177,600.00 in compensatory damages.
- 2) Respondents Interfirst Capital Corporation and Bradley A. Phillips are jointly and severally liable to and shall pay Claimant interest in the amount of 10% per annum on \$177,600.00 from November 14, 2002, until the date payment of this Award is made in full.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

### **FEEs**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Interfirst Capital Corporation and First Allied Securities, Inc. are parties and the following fees are assessed to each:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 2,500.00
<b>Total Member Fees</b>	<b>= \$ 4,600.00</b>

### **Adjournment Fees**

The following adjournment fees are assessed:

July 15, 2002 to July 18, 2002 adjournment request = \$ 1,125.00

The Panel assessed \$1,125.00 of the adjournment fee jointly and severally to Respondents Interfirst Capital Corporation, Brett S. Briggs and Yossi Attia.

### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting four (4) hours or less between the parties and the Panel or a single arbitrator. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session = \$ 450.00  
Pre-hearing conference: January 18, 2002 1 session

(3) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$ 3,375.00  
Pre-hearing conferences: December 19, 2001 1 session  
July 15, 2002 1 session  
August 12, 2002 1 session

(6) Hearing sessions @ \$1,125.00/session = \$ 6,750.00  
Hearings: November 12, 2002 2 sessions  
November 13, 2002 2 sessions  
November 14, 2002 2 sessions

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**Total Forum Fees = \$10,575.00**

The Panel assessed \$10,575.00 of the forum fees jointly and severally to Respondents Interfirst Capital Corporation, Bradley A. Phillips, Brett S. Briggs and Douglas Wright.

**Fee Summary**

1. Claimant Nina H. Katzin is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	<u>= \$ (1,425.00)</u>
<b>Refund Due</b>	<b>= \$ (1,125.00)</b>
  
2. Respondent Interfirst Capital Corporation is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	<u>= \$ ( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 4,600.00</b>
  
3. Respondent First Allied Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	<u>= \$ ( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 4,600.00</b>
  
4. Respondents Interfirst Capital Corporation, Bradley A. Phillips, Brett S. Briggs and Douglas Wright are charged jointly and severally with the following fees and costs:

Forum Fees	= \$10,575.00
<u>Less payments</u>	<u>= \$ ( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$10,575.00</b>
  
5. Respondents Interfirst Capital Corporation, Brett S. Briggs and Yossi Attia are charged jointly and severally with the following fees and costs:

Adjournment Fee	= \$ 1,125.00
<u>Less payments</u>	<u>= \$ ( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,125.00</b>

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

**ARBITRATION PANEL**

Stephen R. Clark	-	Public, Presiding Chair
Charles L. Repp, Jr.	-	Public Arbitrator
Arnold Packer	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Stephen R. Clark  
Chair, Public Arbitrator

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Signature Date

  
Charles L. Repp, Jr.  
Public Arbitrator

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Signature Date

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Arnold Packer  
Non-Public Arbitrator

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Signature Date

12-13-02  
Date of Service  
For NASD Use Only

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Stephen R. Clark	-	Public, Presiding Chair
Charles L. Repp, Jr.	-	Public Arbitrator
Arnold Packer	-	Non-Public Arbitrator

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Stephen R. Clark  
Chair, Public Arbitrator

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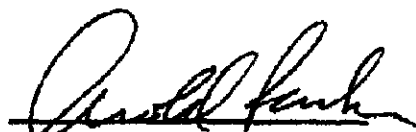
Signature Date

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Charles L. Repp, Jr.  
Public Arbitrator

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Signature Date



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Arnold Packer  
Non-Public Arbitrator

1-13/0 ✓

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Signature Date

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Date of Service  
For NASD Use Only