

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Leila C. Jenkins, (Claimant) vs. Nutmeg Securities, Ltd. and Matthew K. Rochlin,  
(Respondents)

Case Number: 01-02480

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant, Leila C. Jenkins, hereinafter referred to as "Claimant", appeared *pro se*. Previously represented by: Richard C. Fooshee, Esq., a sole practitioner, New York, NY.

Respondents, Nutmeg Securities, Ltd. ("Nutmeg") and Matthew K. Rochlin ("Rochlin"), hereinafter collectively referred to as "Respondents": Richard Slavin, Esq., Cohen and Wolf, P.C., Bridgeport, CT.

**CASE INFORMATION**

Statement of Claim filed on or about: May 11, 2001.

Reply to Counterclaim filed by Claimant on or about: August 7, 2001.

Claimant signed the Uniform Submission Agreement: May 11, 2001.

Joint Statement of Answer and Counterclaim filed by Respondents on or about: July 19, 2001.

Nutmeg signed the Uniform Submission Agreement: July 19, 2001.

Rochlin did not sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract; breach of fiduciary duty; fraud; misappropriation; conversion; and unjust enrichment.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: neither Claimant nor the contacts she purported to provide ever produced any income for Nutmeg; Respondents owe nothing to Claimant, as she was not damaged; no fiduciary relationship exists between Claimant and Respondents; there was no fraud, as Rochlin never knowingly misrepresented any material fact to Claimant; Claimant did not rely to her detriment on any representation made by Rochlin; and Claimant failed to plead fraud with the requisite particularity.

In their Counterclaim, Respondents asserted the following cause of action: vexatious litigation.

Unless specifically admitted in her Reply, Claimant denied the allegations made in the Counterclaim and asserted the following defense: Claimant brought this arbitration in good faith.

### **RELIEF REQUESTED**

Claimant requested that the Panel enter an Award:

- a. Awarding compensatory damages to Claimant in an amount not less than \$950,000.00;
- b. Awarding punitive damages to Jenkins in an amount equal to twice the amount of compensatory damages awarded;
- c. The costs and expenses of bringing this action, including reasonable attorneys' fees and forum fees;
- d. Pre-award interest commencing on June 15, 2000 until the date of a final Award herein; and
- e. Such other and further relief as the Panel deems just and appropriate.

Respondents requested that the Statement of Claim be dismissed.

In their Counterclaim, Respondents requested unspecified damages.

In her Reply, Claimant requested that the Panel enter an Award dismissing the Counterclaim and granting the relief prayed for in the Statement of Claim.

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

By letter dated April 19, 2002, Claimant requested an Order from the Panel prohibiting Respondents from contacting Claimant's clients. Respondents filed a response to said request on the same day. After due consideration, the Panel denied Claimant's request.

During the hearings in this matter, Respondents made a Motion to Dismiss at the close of Claimant's case. The Panel denied said motion.

Rochlin did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure and, having answered the claim, appeared and testified at the hearing, is 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. Claimant's claims are hereby dismissed in their entirety.
2. Respondents' Counterclaim is hereby dismissed in its entirety.
3. Each party shall bear its own legal costs.
4. 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	= \$ 500.00
Counterclaim filing fee	= \$ 500.00

#### **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 person at the time of the events giving rise to the dispute. In this matter, Nutmeg Securities, Ltd. is a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

### **Adjournment Fees**

Adjournments requested during these proceedings:

March 20 & 21, 2002, adjournment by Respondent = 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 \$1,200.00 = \$1,200.00  
Pre-hearing conference: December 7, 2001 1 session

Four (4) Hearing sessions x \$1,200.00 = \$4,800.00  
Hearing Dates: March 26, 2002 2 sessions  
May 23, 2002 2 sessions

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Total Forum Fees = \$6,000.00

1. The Panel has assessed \$3,000.00 of the forum fees against Claimant.
2. The Panel has assessed \$3,000.00 of the forum fees jointly and severally against Respondents.

### **Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= <u>\$3,000.00</u>
Total Fees	= \$3,500.00
<u>Less payments</u>	= <u>\$2,450.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,050.00

2. Nutmeg be and hereby is solely liable for:

<u>Member Fees</u>	= <u>\$7,600.00</u>
Total Fees	= \$7,600.00
<u>Less payments</u>	= <u>\$4,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,500.00

3. Respondents be and hereby are jointly and severally liable for:

Counterclaim Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$3,000.00</u>
Total Fees	= \$3,500.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,500.00

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

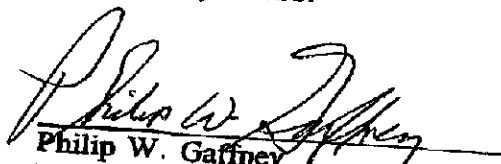
**ARBITRATION PANEL**

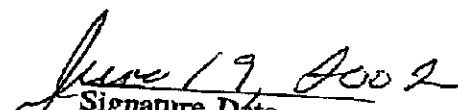
Philip W. Gaffney  
Susan Mills Richmond, Esq.  
Philip R. Lochner, Jr.

Industry Arbitrator, Presiding Chair  
Public Arbitrator  
Public 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.

  
Philip W. Gaffney  
Industry Arbitrator, Presiding Chair

  
Signature Date

Susan Mills Richmond, Esq.  
Public Arbitrator

Signature Date

Philip R. Lochner, Jr.  
Public Arbitrator

Signature Date

June 20, 2002  
Date of Service (For NASD office use only)

**ARBITRATION PANEL**

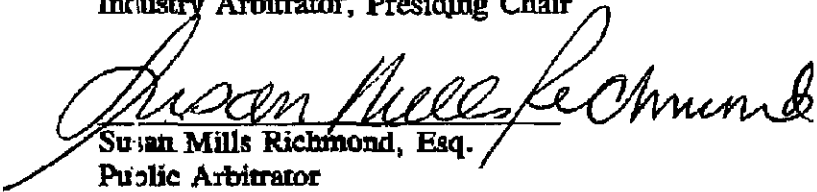
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Philip R. Lochner, Jr.	-	Public Arbitrator

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Industry Arbitrator, Presiding Chair

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Signature Date

  
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Susan Mills Richmond, Esq.  
Public Arbitrator

6-17-02  
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Signature Date

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Philip R. Lochner, Jr.  
Public Arbitrator

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

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**ARBITRATION PANEL**

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Susan Mills Richmond, Esq.

Philip R. Lochner, Jr.

Industry Arbitrator, Presiding Chair

Public Arbitrator

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Industry Arbitrator, Presiding Chair

Signature Date

Susan Mills Richmond, Esq.

Public Arbitrator

Signature Date



Philip R. Lochner, Jr.

Public Arbitrator

6/18/02  
Signature Date

June 20, 2002

Date of Service (For NASD office use only)