

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Susan R. Jaros

and

01-02491
Dallas, Texas

Name of Respondents

Josephthal & Co., Inc.
John W. Ezell
Rick Ohlhaber

REPRESENTATION OF PARTIES

Susan R. Jaros ("**Claimant**") was represented by John E. Dees, Esq., Dallas, Texas.

Josephthal & Co., Inc. ("**Respondent Josephthal**"), John W. Ezell ("**Respondent Ezell**") and Rick Ohlhaber ("**Respondent Ohlhaber**") (collectively as "**Respondents**") were represented by Cheryl Jerome Moore, Esq., Baker & McKenzie, Dallas, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about May 11, 2001. Submission Agreement of Claimant Susan R. Jaros was signed on May 7, 2001.

Statement of Answer was filed by Respondents Josephthal & Co., Inc., John W. Ezell and Rick Ohlhaber on or about July 12, 2001. Submission Agreement of Respondent Josephthal & Co., Inc. was signed on July 5, 2001 by Donald McCabe. Submission Agreement of Respondent John W. Ezell was signed on February 27, 2002. Submission Agreement of Respondent Rick Ohlhaber was signed on February 27, 2002.

CASE SUMMARY

Claimant alleged that Respondents engaged in breach of fiduciary duty, abuse of discretion, churning, suitability, and that Respondents Ohlhaber and Josephthal failed to properly supervise Respondent Ezell. It was specifically alleged that Respondent Ezell was hired by Josephthal in spite of its knowledge of his past customer complaints and regulatory actions. In addition, Claimant alleged that Respondent Ezell managed her account without regard to suitability but rather for the purpose of generating excessive commissions and trading speculative securities.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated:

Claimant was aware of the account activity and approved it. Commissions were disclosed on each confirmation. Claimant did not complain about her losses until almost one year after they had been sustained. Even then, her complaint was merely about performance, not about wrongdoing, and rather than transfer her account from the firm, she transferred it to Mr. Ohlhaber, whom she had spoken-to in the course of his reviews.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an award on unspecified compensatory damages, unspecified punitive damages, expenses of this proceeding and legal fees.

Respondents requested an Award against Claimant: denying all claims in the Statement of Claim; assessing the costs and expenses of this proceeding against Claimant; and all such other and further relief as this Panel may deem just and necessary.

OTHER ISSUES CONSIDERED & DECIDED

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, if any, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Josephthal & Co., Inc., John W. Ezell and Rick Ohlhaber shall be and hereby are jointly and severally liable for and shall pay to Claimant Susan R. Jaros the sum of \$147,238.00 (**One Hundred Forty Seven Thousand Two Hundred Thirty Eight Dollars and no Cents**) as compensatory damages.
2. Respondents Josephthal & Co., Inc., John W. Ezell and Rick Ohlhaber shall be and hereby are jointly and severally liable for and shall pay to Claimant Susan R. Jaros the sum of \$15,250.00 (**Fifteen Thousand Two Hundred Fifty Dollars and no Cents**) as costs.

3. Respondent Josephthal & Co., Inc. shall be and hereby is liable for and shall pay to Claimant Susan R. Jaros the sum of \$5,000.00 (**Five Thousand Dollars and no Cents**) as sanctions for repeated failure to comply with discovery orders.
4. Claimant requested that she not be precluded from pursuing collection of this Award against the company that acquired or is acquiring Josephthal & Co., Inc. The Arbitration Panel can only make findings and determinations relating to the parties before it. However, nothing shall be construed as preventing the Claimant from pursuing any and all remedies for collection otherwise available to her.
5. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
6. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

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 = \$250.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Josephthal & Co., Inc.

Member surcharge	= \$1,200.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,000.00

Forum Fees and Assessments

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

Three (3) Pre-hearing sessions with a single arbitrator x \$450.00	= \$1,350.00
Pre-hearing conference(s):	
October 12, 2001	1 session
February 13, 2002	1 session
February 25, 2002	1 session
One (1) Pre-hearing session with Panel x \$1,000.00	= \$1,000.00
Pre-hearing conference(s):	
October 5, 2001	1 session
Six (6) hearing sessions x \$1,000.00	= \$6,000.00
Hearing Dates:	
March 19, 2002	2 sessions
March 20, 2002	2 sessions
March 21, 2002	2 sessions
Total Forum Fees	= \$8,350.00

The Arbitration Panel has assessed \$8,300.00 of the forum fees jointly and severally to Josephthal & Co., Inc., John W. Ezell, and Rick Ohlhaber.

Fee Summary

Claimant, Susan R. Jaros, shall be and hereby is liable for:

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 250.00
<u>Less payments</u>	= \$1,250.00
Balance to be refunded by NASD Dispute Resolution, Inc.	= \$1,000.00

Respondent, Josephthal & Co., Inc., shall be and hereby is liable for:

Member Fees	= \$3,800.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$3,800.00
<u>Less payments</u>	= \$3,800.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondents, Josephthal & Co., Inc., John W. Ezell, and Rick Ohlhaber shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$8,300.00
Balance Due NASD Dispute Resolution, Inc.	= \$8,300.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Jeff Abrams - Public Arbitrator, Presiding Chair
Mark L. Williams, Esq. - Public Arbitrator
Sheldon F. Schobert - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Jeff Abrams
Jeff Abrams
Public Arbitrator, Presiding Chair

May 29, 2002
Signature Date

/s/ Mark L. Williams
Mark L. Williams, Esq.
Public Arbitrator

May 31, 2002
Signature Date

/s/ Sheldon F. Schobert
Sheldon F. Schobert
Non-Public Arbitrator

June 3, 2002
Signature Date

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Arbitration No. 01-02491
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All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Jeff Abrams - Public Arbitrator, Presiding Chair
Mark L. Williams, Esq. - Public Arbitrator
Sheldon F. Schobert - Non-Public Arbitrator

Concurring Arbitrators:


Jeff Abrams
Public Arbitrator, Presiding Chair

5/29/02
Signature Date

Mark L. Williams, Esq.
Public Arbitrator

Signature Date

Sheldon F. Schobert
Non-Public Arbitrator

Signature Date

FROM : LAW OFFICE OF MARK L WILLIAMS
05/29/02 WED 10:58 FAX

FAX NO. : 817-334-0690
NASD REGULATION

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Jeff Abrams - Public Arbitrator, Presiding Chair
Mark L. Williams, Esq. - Public Arbitrator
Sheldon F. Schobert - Non-Public Arbitrator

Concurring Arbitrators:

Jeff Abrams
Public Arbitrator, Presiding Chair

Signature Date



Mark L. Williams, Esq.
Public Arbitrator

5.31.02

Signature Date

Sheldon F. Schobert
Non-Public Arbitrator

Signature Date

NASD REGULATION

NASD Dispute Resolution, Inc.
Arbitration No. 01-02491
Award Page 5 of 5

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Jeff Abrams - Public Arbitrator, Presiding Chair
Mark L. Williams, Esq. - Public Arbitrator
Sheldon F. Schobert - Non-Public Arbitrator

Concurring Arbitrators:

Jeff Abrams
Public Arbitrator, Presiding Chair

Signature Date

Mark L. Williams, Esq.
Public Arbitrator

Signature Date



Sheldon F. Schobert
Non-Public Arbitrator

6/3/02

Signature Date