

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

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In the Matter of the Arbitration Between:

Jerry and Margarita Ruchaevsky, (Claimants) vs. Edward F. Sadowski, (Respondent)

Case Number: 01-03134

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimants, Jerry Ruchaevsky ("J. Ruchaevsky") and Margarita Ruchaevsky ("M. Ruchaevsky"), hereinafter collectively referred to as "Claimants", appeared *pro se* at the hearing in this matter.

Respondent, Edward F. Sadowski, hereinafter referred to as "Respondent": Denis C. Dice, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, PC, Philadelphia, PA.

**CASE INFORMATION**

Statement of Claim filed on or about: June 5, 2001.

Claimants J. Ruchaevsky and M. Ruchaevsky signed the Uniform Submission Agreement: July 19, 2001.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: September 25, 2001.

Respondent Sadowski signed the Uniform Submission Agreement: October 11, 2001.

**CASE SUMMARY**

Claimants asserted the following causes of action: misrepresentations and omissions of fact; unsuitability of investments; breach of fiduciary duty; and excessive commissions. The causes of action relate to the loss of a portion of Claimants' life savings that was invested with and managed by Respondent.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; ratification; waiver; estoppel; laches; any alleged losses were not the direct result of conditions and factors beyond the control of Respondent; there were no misrepresentations or omissions of material fact upon which Claimants relied to their detriment; Claimants' claims are barred by the applicable statute of limitations and equitable principles of law; assumption of the risk; Claimants' failure to exercise due diligence or reasonable care bars recovery; Respondent had no duty, contractual or otherwise, to disclose or inform Claimants of any facts other than those that were disclosed, nor did Claimants

breach any duty, if any existed; contributory and/or comparative negligence; Respondent did not act with intent to defraud Claimants or with reckless disregard of their interests; Claimants were the direct cause of their damages, if any; Claimants have not identified any legally cognizable damages and cannot prove "loss causation"; any alleged duties owed to Claimants were carried out in good faith by Respondent; proximate cause; Respondent discharged his responsibilities in a professional and ethical manner and in accordance with industry standards and governmental regulations; and there is no private right of action for an alleged violation of NASD rules or any such self-regulatory organization.

#### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$28,239.53.

Respondent requested dismissal of Claimants' claims in their entirety.

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

Pursuant to Rule 10333(a) of the Code of Arbitration Procedure, Multi-Financial Securities, the member firm that employed Respondent during the time of the events in question, was charged a Section 45 member surcharge, pre-hearing and hearing processing fees.

#### **AWARD**

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

1. Respondent be and hereby is liable for and shall pay to Claimant compensatory damages in the sum of \$8,495.00, plus interest at the rate of 6% annum from date of this Award to date of payment;
2. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$150.00 to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.; and
3. All other requests for relief are 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 = \$ 150.00

#### **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. In this matter, Respondent was employed by Executive Financial Services, Corp., a member firm.

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

#### **Adjournment Fees**

Adjournments requested during these proceedings:

May 1, 2002, adjournment requested by all parties = \$ Waived

#### **Forum Fees and Assessments**

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

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00  
Pre-hearing conference: February 28, 2002 1 session

Two (2) Hearing sessions x \$450.00 = \$ 900.00

Hearing Date: June 5, 2002 2 sessions

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Total Forum Fees = \$ 1,350.00

1. The Panel Chairperson has assessed \$202.50 of the forum fees against the Claimant.
2. The Panel Chairperson has assessed \$1,147.50 of the forum fees against the Respondent.

**Fee Summary**

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

Initial Filing Fee	= \$ 150.00
<u>Forum Fees</u>	= \$ 202.50
Total Fees	= \$ 352.50
<u>Less payments</u>	= \$ 600.00
Refund Due Claimants	= \$ 247.50

*As stated in the "Award" section above, Respondent is liable and shall reimburse Claimant for the \$150.00 filing fee.*

2. Respondent be and hereby is solely liable for:

<u>Forum Fees</u>	= \$ 1,147.50
Total Fees	= \$ 1,147.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,147.50

3. Multi-Financial Securities Corporation be and hereby is solely liable for:

<u>Member Fees</u>	= \$ 2,200.00
Total Fees	= \$ 2,200.00
<u>Less payments</u>	= \$ 2,200.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

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

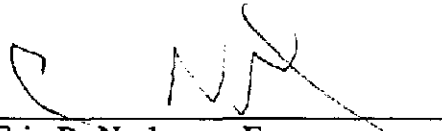
**ARBITRATION PANEL**

Eric P. Nachman

Public Arbitrator

**Arbitrator's Signature**

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.

  
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Eric P. Nachman, Esq.  
Public Arbitrator

  
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Signature Date

July 9, 2002  
Date of Service (For NASD office use only)