

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

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In the Matter of the Arbitration Between:

Sarah Virgadamo, Claimant v. Financial Network Investment Corporation and Luki Lucrecia Styskal Vail, Respondents

Case Number: 02-05708

Hearing Site: San Diego, California

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Nature of Dispute: Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

Dennis R. Villavicencio, Esq.  
Catherine L. Bailey, Esq.  
Akins & Villavicencio, LLP  
Carlsbad, California

For Respondents:

Samuel L. Edgerton, III, Esq.  
Jon C. Furgison, Esq.  
Nash & Edgerton  
Hermosa Beach, California

**CASE INFORMATION**

Statement of Claim filed: September 23, 2002

Claimant's Uniform Submission Agreement signed: September 20, 2002

Joint Statement of Answer filed by Respondents Financial Network Investment Corporation and Luki Lucrecia Styskal Vail: December 11, 2002

Respondent Financial Network Investment Corporation's Uniform Submission Agreement signed: October 7, 2002

Respondent Luki Lucrecia Styskal Vail's Uniform Submission Agreement signed: November 9, 2002

### **CASE SUMMARY**

Claimant alleged breach of fiduciary duty, fraud, deceit, omission of material fact, fraudulent concealment, negligent misrepresentation, breach of implied covenant of good faith and fair dealing, suitability, violation of federal and California securities laws, violation of California's Civil Code and Business and Professions Code, violation of numerous NASD Rules, breach of written contract, and failure to supervise. The dispute involved Claimant's IRA account and the purchase and/or sale of various securities.

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

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$213,441.00, punitive and exemplary damages, interest, attorney's fees, and arbitration costs.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and reimbursement of attorney's fees, and arbitration costs.

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

On March 28, 2003, 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 April 8, 2003, Respondents Financial Network Investment Corporation and Luki Lucrecia Styskal Vail'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.

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, evidence presented at the hearing, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents Financial Network Investment Corporation and Luki Lucrecia Styskal Vail are jointly and severally liable to and shall pay Claimant Sarah Virgadamo \$147,000.00 in compensatory damages.
- 2) Respondents Financial Network Investment Corporation and Luki Lucrecia Styskal Vail are jointly and severally liable to and shall pay Claimant Sarah Virgadamo \$51,450.00 in attorney's fees pursuant to U.S. Offshore, Inc. v. Seabulk Offshore, Ltd, 753 F. Supp. 86, 92 (S.D.N.Y., 1990) and Marshall & Co., Inc. v. Duke, 114 F.3d 188 (11<sup>th</sup> Cir.1997).
- 3) Respondents Financial Network Investment Corporation and Luki Lucrecia Styskal Vail are jointly and severally liable to and shall pay Claimant Sarah Virgadamo \$1,575.00 in costs.
- 4) Claimant's request for punitive damages is denied.
- 5) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 6) 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 Financial Network Investment Corporation is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
<b>Total Member Fees</b>	<b>= \$ 5,200.00</b>

#### **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 between the parties and the Chair/Panel. The following fees are assessed:

Three (3) Pre-hearing conference sessions with the Chair @ \$450.00/session	= \$ 1,350.00
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Pre-hearing conferences:	June 17, 2003	1 session
	August 29, 2003	1 session
	October 9, 2003	1 session

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
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Pre-hearing conference:	June 9, 2003	1 session
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Ten (10) Hearing sessions @ \$1,125.00/session	= \$11,250.00
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Hearings:	October 13, 2003	2 sessions
	October 14, 2003	2 sessions
	October 15, 2003	2 sessions
	October 16, 2003	2 sessions
	October 17, 2003	2 sessions

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<b>Total Forum Fees</b>	<b>= \$13,725.00</b>
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The Panel assessed \$13,725.00 of the forum fees jointly and severally to Respondents Financial Network Investment Corporation and Luki Lucrecia Styskal Vail.

**Fee Summary**

1. Claimant Sarah Virgadamo is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Less payments	= \$(1,575.00)
<b>Refund Due Claimant</b>	<b>= \$(1,275.00)</b>

2. Respondent Financial Network Investment Corporation is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Less payments	= \$(5,200.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents Financial Network Investment Corporation and Luki Lucrecia Styskal Vail are charged jointly and severally with the following fees and costs:

Forum Fees	= \$13,725.00
Less payment by Financial Network Investment Corporation	= \$(2,750.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$10,975.00</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**

Robert C. Wright, Esq.	-	Public Arbitrator, Presiding Chair
Lou von Dyl	-	Public Arbitrator
Daphne D. Duverney, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Robert C. Wright, Esq.  
Chair, Public Arbitrator

Nov. 7, 2003  
Signature Date

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Lou von Dyl  
Public Arbitrator

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

\_\_\_\_\_  
Daphne D. Duverney, Esq.  
Non-Public Arbitrator

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

November 7, 2003  
Date of Service

ARBITRATION PANEL

Robert C. Wright, Esq.	-	Public Arbitrator, Presiding Chair
Lou von Dyl	-	Public Arbitrator
Daphne D. Duverney, Esq.	-	Non-Public Arbitrator

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Robert C. Wright, Esq.  
Chair, Public Arbitrator

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Signature Date

  
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Lou von Dyl  
Public Arbitrator

11-6-2003  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Daphne D. Duverney, Esq.  
Non-Public Arbitrator

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

November 7, 2003  
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Date of Service

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Public Arbitrator

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Daphne D. Duverney, Esq.  
Non-Public Arbitrator

11/6/03  
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Date of Service