

Stipulated Award  
NASD Dispute Resolution

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In the Matter of the Arbitration Between:

Name of the Claimant  
Morad Abou-Sabe

Case Number: 02-06637

Name of the Respondents  
Aetna Financial Services, Inc.  
Gitterman & Sacks, LLC  
Jeffrey L. Gitterman  
Neil J. Sacks

Hearing Site: Philadelphia, PA

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Nature of the Dispute: Customer v. Terminated Member, Non-Member Without a Contract, and Associated Persons.

REPRESENTATION OF PARTIES

Claimant, Morad Abou-Sabe ("Abou-Sabe"), hereinafter referred to as "Claimant", was represented by Steven M. Dranoff, Esq., Law Offices of Dranoff Associates, Philadelphia, Pennsylvania.

Respondents, Aetna Financial Services, Inc. ("Aetna"), Gitterman & Sacks, LLC ("Gitterman & Sacks"), Jeffrey L. Gitterman ("Gitterman") and Neil J. Sacks ("Sacks"), hereinafter collectively referred to as "Respondents", were represented by Andrew W. Davitt, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, P.C., Philadelphia, Pennsylvania.

CASE INFORMATION

Statement of Claim filed on: October 31, 2002.

Claimant signed the Uniform Submission Agreement on: September 30, 2002.

Preliminary Answer and Affirmative Defenses and Respondents' Motion for a More Specific Statement of Claim filed by Respondents on: March 19, 2003.

Amended Preliminary Answer, Motion to Dismiss and Affirmative Defenses filed by Respondents on: April 7, 2003.

Respondent Sacks signed the Uniform Submission Agreement on behalf of himself and for Respondent Gitterman & Sacks on: August 5, 2003.

Respondent Gitterman signed the Uniform Submission Agreement on: August 5, 2003.

Respondent Aetna did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action, among others: misrepresentations, omission of fact, fraudulent concealment, suitability, violation of the New Jersey Uniform Securities Act, breach of fiduciary duty, and failure to supervise. The causes of action relate to the purchase of various unspecified securities

Unless specifically admitted in their Preliminary Answer and Amended Preliminary Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; ratification; waiver; Claimant's claims are barred by the doctrines of estoppel and/or laches; statutes of limitations; failure to exercise due care and diligence; and contributory and/or comparative negligence.

#### RELIEF REQUESTED

Claimant requested the following damages:

|                      |                    |
|----------------------|--------------------|
| Compensatory Damages | \$ 345,000         |
| Punitive Damages     | amount unspecified |
| Attorneys' Fees      | amount unspecified |
| Interest             | amount unspecified |
| Other Costs          | amount unspecified |

Respondents requested that the Statement of Claim be dismissed in its entirety and that an Order be entered directing the expungement of any reference to these matters from Respondents Gitterman's and Sacks' records maintained at NASD's Central Registration Depository ("CRD"). Additionally, Respondents requested that attorneys' fees, costs, and forum fees be assessed against Claimant.

#### OTHER ISSUES CONSIDERED AND DECIDED

Respondent Aetna did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Arbitration Panel (the "Panel") on all issues submitted.

Claimant withdrew with prejudice all claims against Respondents Gitterman, Sacks, and Gitterman & Sacks on June 3, 2004.

Claimant withdrew with prejudice all claims against Respondent Aenta on June 7, 2004.

As such, prior to the hearing, the Parties fully and finally settled all claims by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

#### AWARD

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The listed parties have amenablely resolved their differences and have requested this Stipulated Award;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondents Jeffrey L. Gitterman's and Neil J. Sacks' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Jeffrey L. Gitterman and Neil J. Sacks must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

#### FEES

Pursuant to the Code, the following fees are assessed:

##### Filing Fees

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

|                          |             |
|--------------------------|-------------|
| Initial claim filing fee | = \$ 300.00 |
|--------------------------|-------------|

##### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Respondent Aetna is a party.

|                          |                      |
|--------------------------|----------------------|
| 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 has assessed forum fees for each session conducted. A 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:

|  |             |
|--|-------------|
| One (1) Pre-hearing session with a single arbitrator @ \$ 450.00 | = \$ 450.00 |
| Pre-hearing conference: December 12, 2003 1 session              |             |

|  |               |
|--|---------------|
| One (1) Pre-hearing session with Panel @ \$ 1,125.00 | = \$ 1,125.00 |
| Pre-hearing conference: July 28, 2003 1 session      |               |

|                         |                      |
|-------------------------|----------------------|
| <b>Total Forum Fees</b> | <b>= \$ 1,575.00</b> |
|-------------------------|----------------------|

1. The Panel has assessed \$ 787.50 of the forum fees to Claimant.
2. The Panel has assessed \$ 196.87 to Respondent Aetna.
3. The Panel has assessed \$196.87 to Respondent Gitterman & Sacks, LLC.
4. The Panel has assessed \$196.87 to Respondent Gitterman.
5. The Panel has assessed \$196.87 to Respondent Sacks.

**EEE SUMMARY**

1. Claimant is assessed and shall pay the following fees:

|                         |               |
|-------------------------|---------------|
| Initial Filing Fee      | = \$ 300.00   |
| Forum Fees              | = \$ 787.50   |
| Total Fees              | = \$ 1,087.50 |
| Less payments           | = \$ 1,425.00 |
| Refund owed to Claimant | = \$ 337.50   |
2. Respondent Aetna is assessed and shall pay the following fees:

|                                     |               |
|-------------------------------------|---------------|
| Member Fees                         | = \$ 5,200.00 |
| Forum Fees                          | = \$ 196.87   |
| Total Fees                          | = \$ 5,396.87 |
| Less payments                       | = \$ 5,200.00 |
| Balance Due NASD Dispute Resolution | = \$ 196.87   |
3. Respondent Gitterman & Sacks is assessed and shall pay the following fees:

|                                     |             |
|-------------------------------------|-------------|
| Forum Fees                          | = \$ 196.87 |
| Total Fees                          | = \$ 196.87 |
| Less payments                       | = \$ 00.00  |
| Balance Due NASD Dispute Resolution | = \$ 196.87 |
4. Respondent Gitterman is assessed and shall pay the following fees:

|                                     |             |
|-------------------------------------|-------------|
| Forum Fees                          | = \$ 196.87 |
| Total Fees                          | = \$ 196.87 |
| Less payments                       | = \$ 00.00  |
| Balance Due NASD Dispute Resolution | = \$ 196.87 |
5. Respondent Sacks is assessed and shall pay the following fees:

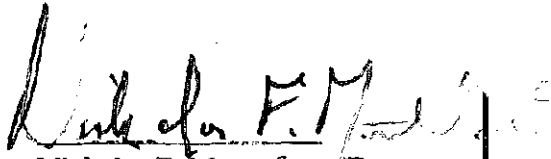
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|-------------------------------------|-------------|
| Forum Fees                          | = \$ 196.87 |
| Total Fees                          | = \$ 196.87 |
| Less payments                       | = \$ 00.00  |
| Balance Due NASD Dispute Resolution | = \$ 196.87 |

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

ARBITRATION PANEL

|                              |   |  |
|------------------------------|---|--|
| Nickolas F. Monteforte, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Gordon M. Wase, Esq.         | - | Public Arbitrator, Panelist              |
| Stephen T. Mayhew            | - | Non-Public Arbitrator, Panelist          |

Concurring Arbitrators' Signatures

  
Nickolas F. Monteforte, Esq.  
Public Arbitrator, Presiding Chairperson

Sept 30, 2004  
Signature Date

\_\_\_\_\_  
Gordon M. Wase, Esq.  
Public Arbitrator, Panelist

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

\_\_\_\_\_  
Stephen T. Maynew  
Non-Public Arbitrator, Panelist

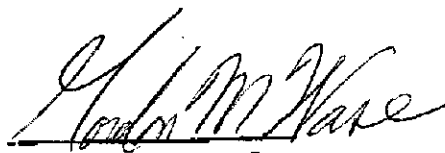
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Signature Date

October 14, 2004  
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Nickolas F. Monteforte, Esq.  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
Gordon M. Wase, Esq.  
Public Arbitrator, Panelist

9/29/04  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Stephen T. Mayhew  
Non-Public Arbitrator, Panelist

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

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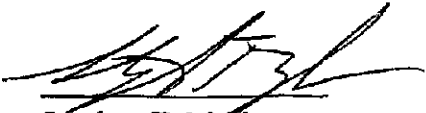
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Nickolas F. Monteforte, Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

\_\_\_\_\_  
Gordon M. Wase, Esq.  
Public Arbitrator, Panelist

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

  
\_\_\_\_\_  
Stephen T. Mayhew  
Non-Public Arbitrator, Panelist

10/4/04  
\_\_\_\_\_  
Signature Date

October 14, 2004  
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)