

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

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In the Matter of the Arbitration Between:  
Sim C. Hoffman, M.D., Claimant v. National Financial Services LLC and Henry  
Fereydouni a/k/a Hamid Fereydouni, Respondents

Case Number: 04-04302

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customer v. Member and Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

Robert Berger, Esq.  
Yaspan & Thau  
Woodland Hills, California

For Respondent National Financial Services LLC:

Michael Shannon, Esq.  
Brown Raysman Millstein  
Felder & Steiner  
New York, New York

For Respondent Henry Fereydouni a/k/a Hamid  
Fereydouni ("Henry Fereydouni"):

Jonathan Schwartz, Esq.  
Law Offices of Jonathan  
Schwartz  
Marina del Rey, California

**CASE INFORMATION**

Statement of Claim filed: June 11, 2004

Claimant's Uniform Submission Agreement signed: June 1, 2004

Statement of Answer and Motion to Dismiss filed by Respondent National Financial  
Services LLC: August 30, 2004

Statement of Answer filed by Respondent Henry Fereydouni: August 31, 2004

Respondent National Financial Services LLC's Uniform Submission Agreement signed: July 20, 2004

Respondent Henry Fereydouni's Uniform Submission Agreement signed: August 18, 2004

### **CASE SUMMARY**

Claimant alleged breach of contract, negligence, failure to supervise, misrepresentations, non-disclosures, omission of facts, and unsuitability, involving a Premiere Select IRA Rollover account and unspecified technology stocks.

Respondent National Financial Services LLC denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

Respondent Henry Fereydouni denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested \$1,558,000.00 in compensatory damages and unspecified punitive damages.

Respondent National Financial Services LLC requested dismissal with prejudice of all claims against National Financial Services LLC, costs, and assessment of forum fees against Claimant.

Respondent Henry Fereydouni requested dismissal of the Claimant's Statement of Claim in its entirety, expenses, and fees.

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

On February 3, 2005, 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 August 31, 2004, Respondent Henry Fereydouni and his 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.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

Respondent National Financial Services LLC filed a Motion to Dismiss with their Answer on August 30, 2004. On May 31, 2005, Claimant filed an Opposition to Respondent National Financial Services LLC's Motion to Dismiss. On June 16, 2005, Respondent National Financial Services LLC filed a Reply in support of its Motion to Dismiss. On October 7, 2005, the Panel held a telephonic pre-hearing conference with the parties to hear oral argument on Respondent National Financial Services LLC's Motion to Dismiss. On October 11, 2005, after due deliberation, the Panel issued an Order dismissing Claimant's claims against Respondent National Financial Services LLC with prejudice.

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

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) 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	= \$ 500.00
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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 National Financial Services LLC is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 5,000.00
<b>Total Member Fees</b>	<b>= \$ 8,550.00</b>

#### **Adjournment Fees**

The following adjournment fees are assessed:

February 6-10, 2006 hearing adjournment	= \$ 1,200.00
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The Panel assessed \$1,200.00 of the adjournment fees to Claimant.

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

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four hours or less. Fees associated with these proceedings are:

3 Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 3,600.00
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Pre-hearing conferences:	May 10, 2005	1 session
	October 7, 2005	1 session
	January 30, 2006	1 session

2 Hearing sessions @ \$1,200.00/session	= \$ 2,400.00
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Hearing:	June 27, 2006	2 sessions
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<b>Total Forum Fees</b>	<b>= \$ 6,000.00</b>
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1. The Panel assessed \$3,600.00 of the forum fees to Claimant.
2. The Panel assessed \$600.00 of the forum fees to Respondent National Financial Services LLC.
3. The Panel assessed \$1,200.00 of the forum fees to Respondent Henry Fereydouni.
4. The Panel assessed \$600.00 of the forum fees jointly and severally to Respondents National Financial Services LLC and Henry Fereydouni.

**Fee Summary**

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

Initial Filing Fee	= \$ 500.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$ 3,600.00
<u>Total Fees</u>	<u>= \$ 5,300.00</u>
<u>Less payments</u>	<u>= \$(1,700.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,600.00</b>

2. Respondent National Financial Services LLC is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
Forum Fees	= \$ 600.00
<u>Total Fees</u>	<u>= \$ 9,150.00</u>
<u>Less payments</u>	<u>= \$(8,550.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 600.00</b>

3. Respondent Henry Fereydouni is charged with the following fees and costs:

Forum Fees	= \$ 1,200.00
<u>Less payments</u>	<u>= \$( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,200.00</b>

4. Respondents National Financial Services LLC and Henry Fereydouni are charged jointly and severally with the following fees and costs:


Forum Fees	= \$ 600.00
<u>Less payments</u>	<u>= \$( 0.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 600.00</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**

Norman R. Cohen	-	Public Arbitrator, Presiding Chair
Jill E. Olofson	-	Public Arbitrator
Jon A. Bostrom	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Norman R. Cohen  
Chair, Public Arbitrator

6/28/06  
Signature Date

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Jill E. Olofson  
Public Arbitrator

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

\_\_\_\_\_  
Jon A. Bostrom  
Non-Public Arbitrator

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

June 28, 2006  
Date of Service

**ARBITRATION PANEL**

Norman R. Cohen	-	Public Arbitrator, Presiding Chair
Jill E. Olofson	-	Public Arbitrator
Jon A. Bostrom	-	Non-Public Arbitrator

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Chair, Public Arbitrator

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Signature Date

  
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Chair, Public Arbitrator

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