

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
J.P. Morgan Invest, LLC

Case Number: 04-05880

Names of the Respondents  
Frederick J. Jinks  
Susan K. Jinks

Hearing Site: Raleigh, North Carolina

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Nature of the Dispute: Member vs. Customers.

**REPRESENTATION OF PARTIES**

Claimant, J.P. Morgan Invest, LLC, hereinafter referred to as "Claimant", was represented by Joshua E. Friedman, Esq., Bernkopf Goodman, LLP, Boston, Massachusetts.

Respondents, Frederick J. Jinks and Susan K. Jinks hereinafter collectively referred to as "Respondents", represented themselves at the hearing on the merits.

**CASE INFORMATION**

Statement of Claim filed on August 20, 2004.

Claimant signed the Uniform Submission Agreement on August 16, 2004.

Statement of Answer filed by Respondents on October 26, 2004.

Respondents signed the Uniform Submission Agreement on October 23, 2004.

**CASE SUMMARY**

In the Statement of Claim, Claimant asserted a cause of action for breach of contract. The cause of action relates to a customer agreement entered into between Claimant and Respondents and an unpaid debit balance created in Respondents' margin account.

Unless specifically admitted in their Statement of Answer, Respondents denied the allegations made in the Statement of Claim.

Respondents, in their Counterclaim against Claimant, asserted a cause of action for alleging improper liquidation of their positions.

Unless specifically admitted in its Answer to Respondents' Counterclaim, Claimant denied the allegations set forth in the Counterclaim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; the counterclaim is barred by the doctrines of estoppel, laches, ratification and authorization; the counterclaim is barred by the statute of limitations; failure to mitigate damages; and the counterclaim is barred because any losses were the result of unforeseen market fluctuations.

### **RELIEF REQUESTED**

Claimant in the Statement of Claim requested:

Compensatory Damages	\$ 97,938.19
Attorneys' Fees	amount unspecified
Interest	amount unspecified
Other Costs	amount unspecified

In their Counterclaim, Respondents requested:

Compensatory Damages	\$ 100,000.00
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### **OTHER ISSUES CONSIDERED AND DECIDED**

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, the testimony and evidence presented at the hearing, the Arbitration Panel (the "Panel") has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable to and shall pay to Claimant the sum of \$97,938.19 in compensatory damages;
2. Respondents' counterclaim is denied in its entirety;
3. The parties shall bear their respective costs, 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	= \$ 1,000.00
Counterclaim filing fee	= \$ 225.00

### **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 person at the time of the events giving rise to the dispute. Accordingly, Claimant is a party.

Member surcharge	= \$	1,100.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	1,700.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

June 6-7, 2005, adjournment by Claimant	= \$	750.00
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### **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 Panel @ \$ 750.00	= \$	750.00
Pre-hearing conference: February 24, 2005 1 session		
Two (2) Hearing sessions @ \$ 750.00	= \$	1,500.00
Hearing Dates: September 12, 2005 2 sessions		
Total Forum Fees	= \$	2,250.00

The Panel has assessed \$ 2,250.00 of the forum fees to Claimant.

### **Fee Summary**

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$	1,000.00
Member Fees	= \$	3,550.00
Adjournment Fee	= \$	750.00
Forum Fees	= \$	2,250.00
Total Fees	= \$	7,550.00
Less payments	= \$	6,050.00
Balance Due NASD Dispute Resolution	= \$	1,500.00

2. Respondents are jointly and severally assessed and shall pay:

Filing Fee	= \$	225.00
Total Fees	= \$	225.00
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	225.00

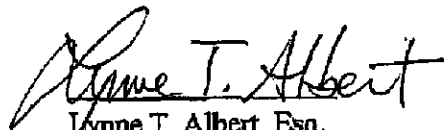
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Lynne T. Albert, Esq.  
Wayne Parker  
Brian Seth Orol

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator, Panelist
- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Lynne T. Albert, Esq.  
Public Arbitrator, Presiding Chairperson

9/14/05

Signature Date

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Wayne Parker  
Public Arbitrator, Panelist

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Signature Date

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Brian Seth Orol  
Non-Public Arbitrator, Panelist


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Signature Date

September 15, 2005  
Date of Service (For NASD Dispute Resolution office use only)

**Concurring Arbitrators' Signatures**

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Lynne T. Albert, Esq.  
Public Arbitrator, Presiding Chairperson

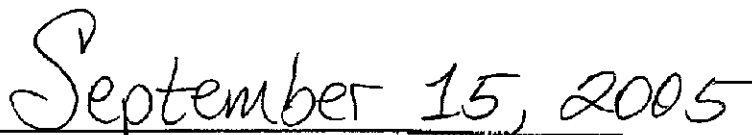
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Wayne Parker  
Public Arbitrator, Panelist

  
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Brian Seth Orol  
Non-Public Arbitrator, Panelist

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Concurring Arbitrator

Lynne T. Albert, Esq.  
Public Arbitrator, Pennsylvania

Signature Date

Wayne Parker  
Public Arbitrator, Pennsylvania

Signature Date

Brian Seth Orol  
Brian Seth Orol  
Non-Public Arbitrator

9/15/2005  
Signature Date

September 15, 2005  
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