

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

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In the Matter of the Arbitration Between:

Mark Ostrowsky (Claimant) vs. First Hudson Financial Group, Inc., Izaill Ezekiel Fields  
and Luis Gabriel MacDonna (Respondents)

Case Number: 05-00785

Hearing Site: New York, New York

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Nature of the Dispute: Customer vs. Member and Associated Persons.

**REPRESENTATION OF PARTIES**

Claimant Mark Ostrowsky, hereinafter referred to as "Claimant": Bradford M. Gucciardo, Esq., Scarlett & Gucciardo, P.A., Boca Raton, FL.

Respondent First Hudson Financial Group, Inc. , hereinafter referred to as "First Hudson": Yuet Wong, First Hudson Financial Group, Inc., New York, NY. Previously represented by Cirino M. Bruno, Esq., Gusrae, Kaplan, Bruno & Nusbaum PLLC, New York, NY.

Respondent Izaill Ezekiel Fields, hereinafter referred to as "Fields" appeared *pro se*.

Respondent Luis Gabriel MacDonna, hereinafter referred to as "MacDonna" appeared *pro se*.

**CASE INFORMATION**

Statement of Claim filed on or about: February 8, 2005.  
Claimant signed the Uniform Submission Agreement: January 24, 2005.

Statement of Answer filed by First Hudson on or about: March 31, 2005.  
First Hudson signed the Uniform Submission Agreement: March 31, 2005.

Fields did not submit a Statement of Answer or Uniform Submission Agreement.

Statement of Answer filed by MacDonna on or about: March 30, 2005.  
MacDonna signed the Uniform Submission Agreement: March 30, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: unauthorized trading, unsuitability, overconcentration, fraud, negligence, breach of fiduciary duty, breach of contract, negligent supervision, violation of Securities Exchange Act of 1934, violation of NASD

and NYSE Rules, respondeat superior and control-person liability. The causes of action relate to shares of stocks of MAMA.COM, Inc.

Unless specifically admitted in its Answer, First Hudson denied the allegations made in the Statement of Claim and asserted various defenses.

Unless specifically admitted in his Answer, MacDonna denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of not less than \$50,326.77, plus other damages, punitive damages in the amount of \$150,980.31, attorneys' fees, pre-judgment interest at the legal rate for Claimant's loss of use of his capital, costs, referral to the U.S. Securities & Exchange Commission, NASD Regulation and the NYSE Division of Enforcement for disciplinary action against Respondents.

Claimant also requested that if the Arbitrators render a judgment based on fraud, that "actual fraud" and/or "fraud while acting in a fiduciary capacity" be mentioned specifically as the basis in any written Judgment to survive any discharge in bankruptcy (11 U.S.C. Sec. 523(a) if any Respondent files a bankruptcy petition. A short explanation of the basis of the punitive damage Award and such further relief as the Arbitrators deem just and appropriate.

Respondent First Hudson requested dismissal of the Statement of Claim and that the Panel order the Claimant to indemnify Respondent for its costs of defense in this proceeding in the event Respondent is found not liable and to award such other and further relief as the Panel deems just.

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

Respondent Izaiil Ezekiel Fields did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

Respondents First Hudson Financial Group, Inc. and Izaiil Ezekiel Fields did not appear at the hearing on January 23, 2007. Upon review of the file and the representations made by the Claimant, the undersigned arbitrators determined that Respondents First Hudson and Fields have been properly served with the Statement of Claim and received due notice of the hearing, and that this case would proceed without said Respondents present, in accordance with the Code.

At the hearing, Claimant resubmitted his Motion to Bar dated May 4, 2005, Claimant also made an oral Motion for Summary Judgment against Respondents. After due deliberation, the Panel granted Claimant's Motion to Bar and denied the Motion for Summary Judgment.

Claimant Mark Ostrowsky and Respondent Luis Gabriel MacDonna, the only parties to appear at the hearing 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 Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents First Hudson is liable for and shall pay to Claimant compensatory damages in the amount of \$16,775.59, plus interest at a rate of 5% per annum from March 2, 2004 to date of payment of the Award.
2. Respondents Fields is liable for and shall pay to Claimant compensatory damages in the amount of \$16,775.59, plus interest at a rate of 5% per annum from March 2, 2004 to date of payment of the Award.
3. Respondents MacDonna is liable for and shall pay to Claimant compensatory damages in the amount of \$16,775.59, plus interest at a rate of 5% per annum from March 2, 2004 to date of payment of the Award.
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **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
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#### **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. Accordingly, First Hudson Financial Group, Inc. is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

November 21 – 22, 2005, adjournment by Claimant	= WAIVED
March 14 – 15, 2006, adjournment by Claimant and First Hudson	= \$1,125.00
Claimant's share	= \$ 281.25

First Hudson's share	= \$ 281.25
Fields' share	= \$ 281.25
MacDonna's share	= \$ 281.25

### **Forum Fees and Assessments**

The Panel has 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 arbitrators, including a pre-hearing conference with the arbitrator that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with Panel @ \$1,125.00/session	= \$ 3,375.00
Pre-hearing conferences:	
June 8, 2005	1 session
November 21, 2005	1 session
May 18, 2006	1 session
One (1) Hearing session @ \$1,125.00/session	= \$ 1,125.00
Hearing Date: January 23, 2007	1 session
Total Forum Fees	= \$ 4,500.00

1. The Panel has assessed \$1,125.00 of the forum fees to Claimant.
2. The Panel has assessed \$1,125.00 of the forum fees to First Hudson.
3. The Panel has assessed \$1,125.00 of the forum fees to Fields.
4. The Panel has assessed \$1,125.00 of the forum fees to MacDonna.

### **FEE SUMMARY**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 281.25
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,706.25
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 281.25
2. Respondent First Hudson Financial Group, Inc. is liable for:

Member Fees	= \$ 5,200.00
Adjournment Fee	= \$ 281.25
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 6,606.25
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 1,406.25
3. Respondent Izaiil Ezekiel Fields is solely liable for:

Adjournment Fee	= \$ 281.25
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,406.25
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,406.25

4. Respondent Luis Gabriel MacDonna is solely liable for:

Adjournment Fee	= \$ 281.25
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 1,406.25
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,406.25

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

**ARBITRATION PANEL**

Marie D. Cirillo	-	Public Arbitrator, Presiding Chairperson
David B. O'Connor, Esq.	-	Public Arbitrator
Robert Manfredi	-	Non-Public Arbitrator

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.

  
\_\_\_\_\_  
Marie D. Cirillo  
Public Arbitrator, Presiding Chairperson

1/30/07  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
David B. O'Connor, Esq.  
Public Arbitrator

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

\_\_\_\_\_  
Robert Manfredi  
Non-Public Arbitrator

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

February 1, 2007

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

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David B. O'Connor, Esq.	-	Public Arbitrator
Robert Manfreda	-	Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson

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Signature Date

David O'Connor, Esq.  
David B. O'Connor, Esq.  
Public Arbitrator

1/29/07  
Signature Date

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Robert Manfreda  
Non-Public Arbitrator

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Signature Date

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David B. O'Connor, Esq.	-	Public Arbitrator
Robert Manfredo	-	Non-Public Arbitrator

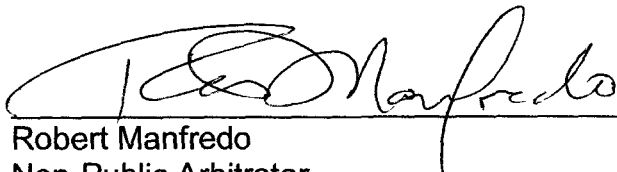
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Non-Public Arbitrator

1/29/07  
Signature Date

**February 1, 2007**

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