

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

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In the Matter of the Arbitration BetweenName of Claimants

Richard &amp; Julia Karn

91-00496

Name of Respondents

F.S.G. Financial Services Group, Inc.  
Q & R Clearing Corporation  
Metlife Securities Inc.  
Annon Ben-Aroya  
David Flanzer

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REPRESENTATION

For Claimants Richard & Julia Karn ("Claimants"): Joseph Keenan of Bochat & Keenan.

For Respondents F.S.G. Financial Services Group, Inc. ("FSG") and David Flanzer ("Flanzer"): Harold W. Paul of Berger & Paul.

For Respondent U.S. Clearing Corp. ("USCC"), formerly known as Q&R Clearing Corporation: Richard E. Orie, of USCC. USCC was indemnified by FSG and, therefore, no representative appeared for USCC.

For Respondent Metlife Securities Inc. ("MetLife"): Mitchell Elberg, of MetLife.

For Respondent Annon Ben-Aroya ("Aroya"): David Pincus, of David R. Lieb, P.C.

CASE INFORMATION

Statement of Claim filed: February 11, 1991.

Claimants' Submission Agreement signed on: January 1, 1991.

Joint Statement of Answer filed by Respondents FSG and Flanzer on: May 17, 1991.

Respondent FSG's Submission Agreement signed on: January 10, 1992.

Respondent Flanzer's Submission Agreement signed on: January 10, 1992.

Statement of Answer filed by Respondent USCC on: May 21, 1991.

Respondent USCC's Submission Agreement signed on: May 21, 1991.

Statement of Answer filed by Respondent MetLife on : April 18, 1991.

Respondent Metlife's Submission Agreement signed on: April 18, 1991.

AWARD  
#91-00496

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Statement of Answer filed by Respondent Aroya on: July 2, 1991.  
Respondent Aroya's Submission Agreement signed on: June 3, 1991.

**HEARING INFORMATION**

Hearing Dates/Sessions: January 09, 1992/2 sessions.  
January 10, 1992/3 sessions.

Hearing Location: NASD, New York.

**CASE SUMMARY**

Claimants alleged Respondents churned their options account; recommended unsuitable options and insurance product investments; and did not supervise the account.

Respondents PSG and Flanzer denied Claimants allegations of churning, recommending unsuitable investments and lack of supervision.

Respondent USOC denied all allegations made by Claimants.

Respondent Metlife denied all allegations of wrongdoing or liability in the Claimants' claim for damages.

Respondent Aroya denied the material allegations of the claim.

**RELIEF REQUESTED**

Claimants requested: actual damages in excess of \$45,000.00; punitive damages; interest; attorneys' fees; costs and disbursements.

Respondents PSG and Flanzer requested: attorneys' fees and dismissal of the Statement of Claim.

Respondent USOC requested: the claims be dismissed.

Respondent MetLife requested: Claimants' claim for damages be denied and costs.

Respondent Aroya requested: judgment dismissing the claim; costs and disbursements.

**OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award

**AWARD**

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while the original remains on file with the NASD.

**AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1- Respondents FSG, Flanzer, Aroya, jointly and severally, are liable and shall pay to Claimants the sum of EIGHTEEN THOUSAND 00/100 DOLLARS (\$18,000.00);
- 2- Respondent Metlife is liable and shall pay to Claimants the sum of TWO THOUSAND 00/100 DOLLARS (\$2,000.00);
- 3- All other claims and motions are dismissed or denied;
- 4- The parties shall each bear their own costs, including attorneys' fees.

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$120.00 non-refundable filing fee and the following Forum Fees are assessed.

5 sessions X 400.00 = \$2,000.00

**Forum fees Assessed Against:**

- 1- Claimants, in the amount of \$1,000.00; however, Claimants may use their \$400.00 hearing session deposit to offset part of this amount. Therefore, the amount due and owing equals \$600.00;
- 2- Respondent Aroya, in the amount of \$500.00;
- 3- Respondent FSG, in the amount of \$500.00.

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Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures



Allen Kist/Public Arbitrator



Roger M. Deitz/Public Arbitrator



Joseph E. DaGrosa/Industry Arbitrator

Date of Decision: January 13, 1992

**NASD**

Arbitration

STATE OF *New York*

S.S.:

National Association of  
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NASD Financial Center  
33 Whitehall Street  
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FAX (212) 858-4389

COUNTY OF *New York*

On this *10<sup>th</sup>* day of *January*, 1992, before me personally  
appeared Allen Kilik known and known to me to be the individual  
described in and who executed the foregoing instrument and be  
duly acknowledged to me that he executed the same.

*Susan J. Lerner*

SUSAN J. LERNER  
NOTARY PUBLIC, State of New York  
No. 4571057  
Qualified in Nassau County  
Commission Expires September 4, 19*92*

**NASD**

Arbitration

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STATE OF *New York*

S.S.:

COUNTY OF *New York*

On this *10<sup>th</sup>* day of *January*, 1992, before me personally  
appeared Roger M. Dietz known and known to me to be the  
individual described in and who executed the foregoing instrument  
and be duly acknowledged to me that he executed the same.

*Susan J. Unger*

SUSAN J. UNGER  
NOTARY PUBLIC, State of New York  
No. 4971387  
Qualified in Nassau County  
Commission Expires September 4, 19*92*

**NASD**

Arbitration

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STATE OF *New York*  
COUNTY OF *New York*

S.S.: 33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

On this *10<sup>th</sup>* day of *January*, 1992, before me personally  
appeared Joseph E. DaGrosa known and known to me to be the  
individual described in and who executed the foregoing instrument  
and he duly acknowledged to me that she executed the same.

*Susan J. Ungar*

SUSAN J. UNGER  
NOTARY PUBLIC, State of New York  
No. 4971087  
Qualified in Notary Public  
Commission Expires September 1, 1992