

N A S D AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Neena Rani Gupta

92-02199

Name of Respondents

Mayfair Securities, Limited  
Marcus Figueirado  
Jack Maddock

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**REPRESENTATION**

For Claimant, Neena Rani Gupta ("Gupta"): Mark A. Tepper, Esq. of the law office of Mark A. Tepper, Hollywood, Florida.

Respondents, Mayfair Securities, Limited ("Mayfair"), Marcus Figueirado ("Figueirado"), and Jack Maddock ("Maddock") were all pro se.

**CASE INFORMATION**

Statement of Claim filed: on July 1, 1992.

Claimant's Submission Agreement signed on: July 1, 1992.

Respondents, Mayfair, Figueirado, and Maddock, all failed to file answers or sign Submission Agreements as required pursuant to Section 12(a) of the NASD Code of Arbitration Procedure ("Code"), Mayfair being an NASD member firm and Figueirado and Maddock being persons associated with a member firm at the time this controversy arose (see "Other Issues").

**HEARING INFORMATION**

On March 23, 1994 a hearing lasting two (2) sessions was held in Fort Lauderdale, Florida.

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### **CASE SUMMARY**

Claimant alleged that Respondents violated Section 817.301 of the Florida Securities and Investor Protection Act by perpetrating a fraud upon the Claimant. Claimant alleged that Respondents violated Section 812.014 of the Florida Statutes by perpetrating a theft upon the Claimant by means of unsuitable recommendations, fraudulent unauthorized trading, and concealment and that Respondents breached their fiduciary duty to the Claimant by making unauthorized trades, unsuitable recommendations, and concealment of these actions. Claimant also alleged that Respondents violated Rule 10b-5 under Section 10b of the Securities Exchange Act of 1934 and committed Common Law Fraud by means of the aforementioned acts.

Respondents failed to file answers.

### **RELIEF REQUESTED**

Claimant requested: damages in excess of \$182,000.00 plus interest, costs, attorneys' fees, and punitive damages.

Respondents failed to file answers.

### **OTHER ISSUES CONSIDERED & DECIDED**

1. This panel finds that Respondents were required to sign submission agreements pursuant to Sections 12 and 25 of the Code. Jurisdiction exists pursuant to Section 12 of the Code and pursuant to the form U-4 executed by Respondents, Figueirado, and Maddock.
2. For the reasons set forth in the record of proceedings, this panel finds service upon and adequate notice to Respondents Mayfair, Figueirado and Maddock. The NASD has made every attempt to locate and serve Respondents with notice of this hearing as demonstrated by the evidence contained in Arbitrators Exhibit #2.
3. Claimant has 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 Claimant has agreed to receive a conformed copy of the award while the originals remain on file with the NASD.

### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and Respondents, Mayfair, Figueirado, and Maddock, neither appearing at the hearing nor seeking an adjournment thereof, notwithstanding their knowledge of this arbitration as evidenced in the record of the proceedings, the arbitration panel has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Mayfair, Figueirado and Maddock are found liable, jointly and severally, for fraud pursuant to Chapter 517 of the Florida Statutes and shall pay to the Claimant the amount of \$244,989.00 inclusive of interest.
2. Respondents, Mayfair, Figueirado, and Maddock are also found liable, jointly and severally, for punitive damages and shall pay to Claimant the further amount of \$734,967.00. This panel finds that Respondents' conduct was of a willful, wanton, and egregious nature so as to require an award of punitive damages and as such the panel awards punitive damages of three times the actual damages. This panel awards punitive damages pursuant to the allegations of the Statement of Claim and the testimony adduced at the hearing. the panel bases its authority to award punitive damages on the authority cited in the Statement of Claim and the Federal Arbitration Act.
3. Respondents, Mayfair, Figueirado and Maddock are also found liable, jointly and severally, for attorney's fees pursuant to Section 517.211(6) of the Florida Statutes and are ordered to pay to the Claimant the further amount of \$20,000.00. The panel bases its authority to award attorney's fees on the Federal Arbitration Act and the case law interpreting that Act.

### COSTS

Respondents, Mayfair, Figueirado and Maddock are also found liable, jointly and severally, for costs and expert witness fees and shall pay to Claimant the amount of \$2,000.00.

### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrators have assessed forum fees in the amount of \$1,500.00 (2 sessions X \$750.00).

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1. Respondents Mayfair, Figueirado and Maddock are hereby assessed \$1,500.00, jointly and severally. Respondents are ordered to reimburse Claimant for the hearing session deposit of \$750.00 paid by Claimant leaving a balance due the National Association of Securities Dealers, Inc. of \$750.00.

2. Respondents Mayfair, Figueirado and Maddock are also ordered to, jointly and severally, reimburse Claimant \$200.00 for the filing fee paid by Claimant.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/

Public

/s/

Public

/s/

Industry

Date of Decision: 4-26-94