

NASD REGULATION, INC. AWARD

In the Matter of the Arbitration Between

Name of Claimants

Sondra Nodvin, Marvin Nodvin, Profit Sharing Plan and Trust
of the Nodvin Firm, and Ecovest Associates, Ltd

Case No.
95-01782

Name of Respondent

National Financial Services Corp.

REPRESENTATION

Claimants Sondra Nodvin, Marvin Nodvin, Profit Sharing Plan and Trust of the Nodvin Firm, and Ecovest Associates, Ltd ("Claimants") were represented by H. Lamar Mixson, Esq. of the law firm of Bondurant, Mixson & Elmore, Atlanta, GA.

Respondent National Financial Services Corp. ("Respondent") was represented by Matthew Farley, Esq. of the law firm of Shanley & Fisher, P.C., New York, NY.

CASE INFORMATION

Statement of Claim filed: April 11, 1995

Claimants' Submission Agreement signed on: April 10, 1995

Claimants' Reply to Counterclaim filed on: July 24, 1995

Statement of Answer and Counterclaim filed by Respondent on: June 20, 1995

Respondent's Submission Agreement was executed by Jeffrey R. Larson, Sr. Legal Counsel on: April 27, 1995

HEARING INFORMATION

Hearing Dates/Sessions:

November 13, 1996 - two sessions
November 14, 1996 - two sessions
November 15, 1996 - two sessions
January 28, 1997 - two sessions
January 29, 1997 - two sessions
January 30, 1997 - two sessions
June 3, 1997 - two sessions
June 4, 1997 - two sessions
June 5, 1997 - two sessions
September 18, 1997 - two sessions
September 19, 1997 - one session

Hearing Locations: Marriott Buckhead Courtyard, Atlanta, GA; Terrace Garden Hotel, Atlanta, GA; and NASD Regulation, Inc., District Office, Atlanta, GA.

CASE SUMMARY

Claimants alleged, among other thing, that Respondent violated its duties as Claimants' broker by failing to register the derivatives or ensuring that they had been registered, violating the margin and lending requirements, failing to monitor Claimants' accounts, providing Claimants with false, misleading, and fraudulent account statements, unilaterally selling all assets in Claimants' High Yield Management Securities, Inc. ("HYM") accounts without notice and in a commercially unreasonable manner, and seizing all the assets in Claimants' Muriel Siebert & Co. accounts. Claimants bring the following causes of action against NFSC: negligence, breach of fiduciary duty, common law fraud, breach of contract, conversion, state and federal securities law violations, improper disposition of collateral, and state and federal RICO violations.

Respondent categorically denied all allegations of wrongdoing asserted by Claimants. Respondent maintained, among other things, that its role and responsibilities as the clearing broker for HYM was to handle clerical, administrative and record-keeping matters as well as the administration of margin relationships where they existed. Respondent maintained that the allegations Claimants assert are properly asserted against an introducing firm such as HYM and not the clearing firm. Respondent maintained that rules and regulations of the securities industry free clearing firms from all "know your customer" responsibilities with respect to introduced accounts.

Respondent counterclaimed, among other things, that Claimants are indebted to Respondent for a debit balance in an amount in excess of \$2 million.

Claimants maintained, among other things, that Respondent is not entitled to recover any amount on its counterclaim.

RELIEF REQUESTED

Claimants requested compensatory damages in an amount not less than \$6 million, plus punitive damages in an amount equal to their actual damages and their attorneys' fees. Claimants also requested that Respondent's counterclaim be dismissed in its entirety.

Respondent requested all claims against it be dismissed in their entirety and that all costs be assessed against Claimants. In its counterclaim, Respondent requested the recovery of the debit balance to be proved at the hearing, plus interest, costs and attorney's fees.

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 while the originals remain on file with NASD Regulation, Inc. ("NASD Regulation").

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. Claimants' claims for compensatory damages are denied in their entirety.
2. Claimants' claim for punitive damages is denied in its entirety.
3. That Respondent's counterclaim against Claimants is awarded as follows:

Sondra Nodvin is liable and shall pay to Respondent the sum of \$422,000;

Marvin Nodvin is liable and shall pay to Respondent the sum of \$403,000; and,

Ecovest Associates, Ltd is liable and shall pay to Respondent the sum of \$733,000.

The total award in favor of Respondent is \$1,588,000.00. Post judgement award with interest at a rate of seven percent (7%) per annum will begin to run on the above stated amounts thirty (30) days after receipt of this Award.

4. Each party shall bear their own attorneys' fees and costs, except as forum fees are specifically addressed below.
5. Any and all relief not specifically addressed herein is denied in its entirety.

OTHER COSTS

Claimants were assessed a postponement fee on April 8, 1996 for the initial scheduled hearings on May 21, 22 and 23, 1996. This postponement fee of \$1,000 remains due and owing from Claimants. Claimants were assessed administrative costs in the amount of \$76.45 of which \$35 has been paid. The balance on administrative costs is \$41.45 which remains due and owing from Claimants.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the following Forum Fees are assessed.

21 hearing sessions x \$1,500 = \$31,500

Claimants have paid a hearing session deposit in the amount of \$1,500

Respondent paid its member surcharge in the amount of \$500

Respondent was charged a hearing session fee on its counterclaim in the amount of \$1,000. Respondent paid \$1,500 as its counterclaim fee leaving an overpayment of \$500.

Forum Fees Assessed Against: Claimants shall pay 75% of the forum fees for a total forum fee assessment of \$23,625. Claimants are entitled to offset this fee with their hearing session fee of \$1,500 previously deposited so that the amount due as forum fees from Claimants are \$22,125. Respondent is assessed 25% of the forum fees for a total forum fee assessment of \$7,875. Respondent is entitled to offset this amount with its hearing session fee of \$1,000 and its overpayment of \$500 so that the amount due as forum fees from Respondent is \$6,375.

Fees are payable to NASD Regulation, Inc.

DATE AWARD SIGNED

Concurring Arbitrators' Signatures

Jan. 8, 1998

Daniel E. Gulden
Daniel E. Gulden, Esq., Chairman
Public Arbitrator

Fred H. Vollbeer, Panelist
Public Arbitrator

Chesley V. Morton, Jr., Panelist
Industry Arbitrator

Date Award Serve By NASD Regulation:

January 13, 1998

Forum Fees Assessed Against: Claimants shall pay 75% of the forum fees for a total forum fee assessment of \$23,625. Claimants are entitled to offset this fee with their hearing session fee of \$1,500 previously deposited so that the amount due as forum fees from Claimants are \$22,125. Respondent is assessed 25% of the forum fees for a total forum fee assessment of \$7,875. Respondent is entitled to offset this amount with its hearing session fee of \$1,000 and its overpayment of \$500 so that the amount due as forum fees from Respondent is \$6,375.

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Public Arbitrator


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Chesley V. Morton, Jr., Panelist
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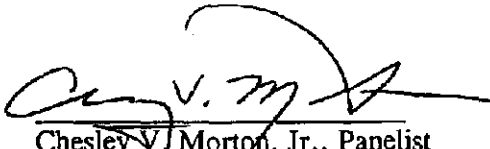
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