

NASD REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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Name of Claimant

Marjana Pavkovic

96-03138

Name of Respondent

Josephthal Lyon & Ross Inc.  
Edward M. Vecchio, Jr.

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REPRESENTATION

For claimant Marjana Pavkovic ("claimant") appeared J. G. Alexander Novak, Esq. of the law firm of Novak & Juhase located in New York, New York.

For respondents Josephthal Lyon & Ross, Inc. ("Josephthal") and Edward M. Vecchio, Jr. ("Vecchio") appeared Evan D. Jay, Esq., Associate General Counsel of Josephthal Lyon & Ross, Inc.

CASE INFORMATION

Statement of Claim was filed on July 19, 1996. Claimant's Submission Agreement was signed on June 12, 1996.

Statement of Answer was filed on September 5, 1996. Josephthal's Submission Agreement was signed on August 28, 1996. Vecchio's Submission Agreement was signed on: September 3, 1996.

HEARING INFORMATION

Hearing Sessions/Dates:	March 10, 1996	-	Two Sessions
	March 11, 1996	-	Two Sessions

The hearings were held at the offices of NASD Regulation, Inc. located at 125 Broad Street, New York, New York.

### **CASE SUMMARY**

Claimant alleged that she was introduced to Vecchio through a mutual friend and that, in 1994, Vecchio contacted her to invest in stocks. Claimant further alleged that Vecchio knew of her lack of significant employment and that he falsified her account information in order to be able to invest her money as he saw fit. Claimant also asserted that Vecchio made purchases on margin without her consent and that, between March 1994 and March 1995, she invested and lost \$33,727.99.

Claimant alleged that respondents were liable for inappropriate investments, for failing to obtain prior consent for the purchase of stock on margin and for operating a margin account, for fraudulent misrepresentation and for failure to supervise. Claimant further alleged that Josephthal was liable under the theory of respondeat superior.

Respondents maintained that claimant visited its branch office twice to deliver checks for margin calls and that claimant never complained to any Josephthal employee regarding any alleged unauthorized or unsuitable trading in her account. Respondents further maintained that claimant ratified the transactions by making regular margin maintenance payments without complaint.

As affirmative defenses, respondents maintained that claimant was barred from recovery in that she initiated, authorized and ratified the transactions; that claimant waived her right to seek recovery by her failure to notify any supervisory personnel at Josephthal of the alleged wrongdoing; and that claimant's damages were not the result of any act or omission on their part.

### **RELIEF REQUESTED**

Claimant requested out of pocket losses of \$33,710.00, interest of \$7,584.00 and commissions of \$4,485.00.

Respondent requested that the Statement of Claim be dismissed in its entirety and that their costs be reimbursed by claimant.

### **OTHER ISSUES CONSIDERED AND 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.

### **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. All claims against respondents Josephthal and Vecchio be and hereby are dismissed in their entirety.
2. Claimant's request for attorneys' fees is hereby denied.
3. Based on the merits of this case, it is hereby ordered that this claim be expunged from the permanent CRD records of Edward Vecchio by NASD Regulation, Inc.
4. Each party shall bear their own costs.
5. All other claims are denied.

#### FORUM FEES

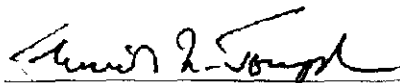
Pursuant to Rule 10332 (formerly Section 43(c)) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$120.00 non-refundable filing fee previously deposited by claimant and have assessed the following forum fees:

4 hearing sessions x \$400.00 = \$1,600.00

1. Claimant be and hereby is liable for the sum of \$800.00, representing one-half of the total amount of forum fees assessed. Claimant previously deposited \$400.00 with NASD Regulation and, therefore, claimant is liable and shall pay \$400.00 to NASD Regulation.
2. Josephthal be and hereby is liable and shall pay the sum of \$800.00 to NASD Regulation, representing one-half of the total amount of forum fees assessed.

Fees are payable to the NASD Regulation, Inc.

Arbitrators' Signatures



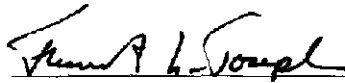
Frederick M. Joseph, Esq.  
Chairperson-Public Arbitrator

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Stanley M. Ulanoff  
Public Arbitrator

\_\_\_\_\_  
Marvin Lippsett  
Industry Arbitrator

Date of decision: April 9, 1997

I, **Frederick M. Joseph, Esq.**, 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.



Frederick M. Joseph, Esq.

Arbitrators' Signatures

\_\_\_\_\_  
Frederick M. Joseph, Esq.  
Chairperson-Public Arbitrator

Stanley M. Ulanoff  
Stanley M. Ulanoff  
Public Arbitrator

\_\_\_\_\_  
Marvin Lippsett  
Industry Arbitrator

Date of decision: April 9, 1997

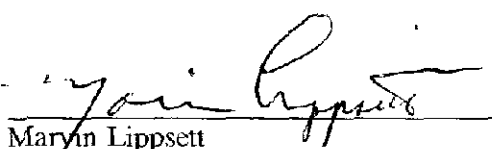
I, **Stanley M. Ulanoff**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Stanley M. Ulanoff  
Stanley M. Ulanoff

Arbitrators' Signatures

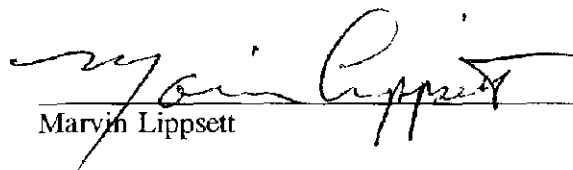
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Frederick M. Joseph, Esq.  
Chairperson-Public Arbitrator

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Stanley M. Ulanoff  
Public Arbitrator

  
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Marvin Lippsett  
Industry Arbitrator

Date of decision: April 9, 1997

I, **Marvin Lippsett**, 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.

  
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Marvin Lippsett