

**Award
NASD Regulation, Inc.**

In the Matter of the Arbitration Between:

Isaac Moradi, Jacob Moradi and Victoria Moradi, Claimants vs. National Financial Services Corporation, Respondent, and Steven L. Eitman, Respondent

Case Number: 96-04343

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimants, Isaac Moradi, Jacob Moradi and Victoria Moradi, (collectively "Claimants"): Jay D. Fischer, Esq., Alan C. Thomas, Esq. and Reena Forst, Esq., of Fischer Weisinger Caliguire & Porter, New York, New York

Respondent National Financial Services Corporation ("NFSC"): Matthew Farley, Esq. and Charles D. Donohue, Esq., Shanley & Fisher, New York, New York

Respondent Steven L. Eitman ("Eitman") appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: September 30, 1996

Claimants' Answer to NFSC's Counter-Claim filed on or about: April 16, 1997

Amended Statement of Claim filed on or about: April 6, 1998

Claimant Victoria Moradi signed the Uniform Submission Agreement: October 12, 1996

Claimant Jacob Moradi signed the Uniform Submission Agreement: November 23, 1996

Claimant Isaac Moradi signed the Uniform Submission Agreement: October 12, 1996

Statement of Answer and Counter-Claim filed by Respondent NFSC on or about: April 14, 1997

NFSC's Answer to Amended Statement of Claim filed on or about: May 14, 1998

Respondent NFSC signed the Uniform Submission Agreement: February 6, 1997

Statement of Answer filed by Respondent Eitman on or about: January 10, 1997

Eitman's Answer to Amended Statement of Claim filed on or about: August 10, 1998

Respondent Eitman signed the Uniform Submission Agreement: January 13, 1997

CASE SUMMARY

Claimants alleged that NFSC violated Rules 382, 405, 409 and 431 of the New York Stock Exchange Rules, violated provisions contained within Regulation T and breached its fiduciary duty to the Claimants. Specifically, but without limitation, Claimants alleged that:

- A. NFSC, in violation of Rule 382, incorrectly and improperly carried out its clearing functions by failing to obtain proper prices for the securities held by Claimants which resulted in it incorrectly maintaining its records and reporting incorrect information on the statements it issued to Claimants;
- B. NFSC, in violation of Rule 405, failed to properly investigate the Claimants and their resources before extending excessive margin credit to them;
- C. NFSC, in violation of Rule 409, incorrectly carried out its clearing functions by reporting incorrect information on the statements it issued to Claimants;
- D. NFSC, in violation of Rule 431 and Regulation T, extended credit to Claimants in excess of the amount allowable in accordance with the recognized and accepted industry standards causing them to sustain heavier losses than they might otherwise have;
- E. NFSC breached its fiduciary duty to Claimants by loaning them funds in excess of that which should reasonably have been lent to any customer in accordance with the recognized and accepted industry standards;
- F. NFSC participated in HYM Financial ("HYM") and Jeffrey Goldstern's ("Goldstern") breach of their fiduciary duty to the Claimants, knew of their fraudulent practices, and took no action to protect the Claimants.

Claimants further alleged that Steven Eitman, in his capacity as a control person, failed to adequately monitor the activities of Goldstern when he fraudulently misrepresented the character of the securities he purchased on the Claimants' behalf. Specifically, but without limitation, Claimants alleged that:

- G. Eitman, in violation of Section 10(b) of the Securities Exchange Act of 1934, engaged in a course of conduct which would and did operate as fraud or deceit;
- H. Eitman, in violation of Section 5 of the Securities Act of 1933, sold securities which contained misstatements of fact and/or omitted material facts to mislead the Claimants;
- I. Eitman engaged in a pattern of racketeering in the course of his business.

Respondent Eitman denied the allegations of wrong-doing as asserted in the Statement of Claim and stated that the claims were based on a false pretense. Eitman maintained that he was not a control person in accordance with Section 20(a) of the Securities and Exchange Act of 1934

and that he acted in good faith in all dealings with Claimants. Eitman further maintained that he was not a culpable participant in any alleged illegal activities. Eitman contended that he was not involved with the sales activities relevant to the claims raised in this case, and that Claimants provided no evidence of any wrong-doing that he had any control over.

Respondent NFSC asserted that it is a clearing firm which, pursuant to longstanding and well established industry regulation and practice, provided to HYM, one of its correspondents, only the standard and routine clearing or "back office" services. NFSC stated their services included the extension of margin to HYM and to HYM's retail customers at such levels, subject to house and Exchange maintenance requirements, as was desired. NFSC at all times performed those services within the standards of clearing firm conduct and was at all times in full compliance with all applicable industry regulations that governed NFSC's conduct and performance of its services. NFSC maintained that Claimants' allegations did not establish any mispricing of securities or any other failure by NFSC to perform in compliance with margin regulations or any other industry regulations or standards.

NFSC maintained that the losses in Claimants' account were a result of extraordinary market conditions, a "crash" in the market for CMO-type mortgages which was chronicled and widely reported in the financial press starting on or about April 1, 1994. NFSC asserted that those events were not only beyond NFSC's control, but were expressly agreed to by the Claimants in their account documentation to be outside any liability of NFSC.

In its Counterclaim, NFSC seeks recovery of the deficit balance owed by Claimants to NFSC in their margin account as of October 1994, plus accrued interest, in the aggregate sum of \$105,410.00.

RELIEF REQUESTED

Claimants requested damages of \$2,192,229.00, pre-award interest at market rate from the date of the unlawful conduct claimed of, punitive damages, plus costs and attorneys' fees, and any other relief the arbitrators deem just and proper.

Respondent Eitman requested that all claims asserted against him be dismissed in their entirety and all costs of this arbitration be assessed to Claimants.

Respondent NFSC requested the claims against NFSC be dismissed in all respects, with the filing and hearing fees and other costs associated with the proceeding assessed against the Claimants.

NFSC requested, in the Counterclaim, damages against the Claimants, jointly and severally, in the amount of \$105,410.00 plus interest.

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.

AWARD

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

1. That Claimants' claims are denied as to NFSC and Eitman in their entirety; and
2. That Claimants' claims for punitive damages are denied; and
3. That Counterclaim Respondent Isaac Moradi is liable to and shall pay to NFSC \$106,113.97 inclusive of interest; and
4. That each party shall bear their own costs and expenses, including attorneys' fees, with the exception of forum fees as specified below; and
5. That any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$300.00
Counterclaim filing fee	= \$500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$500.00
------------------	------------

Adjournment Fees

Adjournments requested during these proceedings:

February 1997 adjournment by Claimants	= \$1,000.00
March 1998 adjournment by Claimants	= \$1,000.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

1 Pre-hearing session with a single arbitrator x \$300.00	= \$300.00
Pre-hearing conferences: March 23, 1998 1 session	
4 Pre-hearing sessions with Panel x \$1,500.00	= \$6,000.00
Pre-hearing conferences: May 18, 1998 1 session	
October 2, 1998 1 session	
October 21, 1998 1 session	
March 16, 1999 1 session	
13 Hearing sessions x \$1,500.00	= \$19,500.00
Hearing Dates: November 23, 1998 2 sessions	
November 24, 1998 1 sessions	
February 23, 1999 2 sessions	
February 24, 1999 2 sessions	
July 13, 1999 2 sessions	
July 14, 1999 2 sessions	
July 15, 1999 2 sessions	
Total Forum Fees	= \$25,800.00

1. The Panel assessed \$12,900.00 of the forum fees to Claimants.
2. The Panel assessed \$12,900.00 of the forum fees to NFSC.

Fee Summary

1. Claimants Isaac Moradi, Jacob Moradi and Victoria Moradi, be and hereby are, jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fees	= \$ 2,000.00
Forum Fees	= <u>\$12,900.00</u>
Total Fees	= \$15,200.00
Less payments	= <u>\$ 3,300.00</u>
Balance Due NASD Regulation, Inc.	= \$11,900.00

2. Respondent, NFSC, be and hereby is solely liable for:

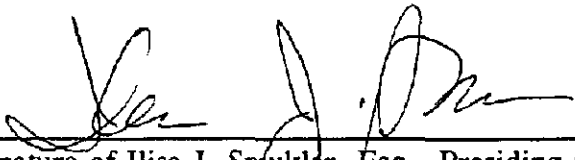
Filing Fee	= \$ 500.00
Member Fees	= \$ 500.00
Forum Fees	= <u>\$12,900.00</u>
Total Fees	= \$13,900.00
Less payments	= <u>\$ 2,500.00</u>
Balance Due NASD Regulation, Inc.	= \$11,400.00

All balances are due to NASD Regulation, Inc. and are payable within 30 days of the service date of this Award.

AFFIRMATION AND CONCURRING ARBITRATOR'S SIGNATURE

I, **ILISA J. SMUKLER, ESQ.**, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules of New York, that I am the individual described herein and who executed this instrument, which is my award.

Date Executed: July 29, 1999



Signature of Ilisa J. Smukler, Esq., Presiding Chairman
Public Arbitrator

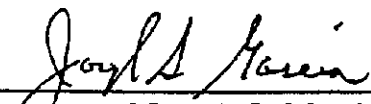
Date Decision Served by NASD: August 10, 1999
(For NASD office use only)

AFFIRMATION AND CONCURRING ARBITRATOR'S SIGNATURE

I, **JOSEPH S. MASCIA**, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules of New York, that I am the individual described herein and who executed this instrument, which is my award.

Date Executed:

July 30, 1999



Signature of Joseph S. Mascia
Public Arbitrator

Date Decision Served by NASD:
(For NASD office use only)

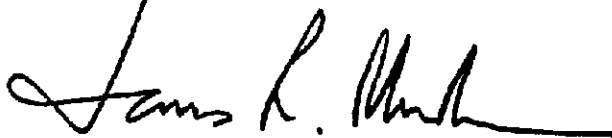
August 10, 1999

AFFIRMATION AND CONCURRING ARBITRATOR'S SIGNATURE

I, JAMES R. MADAN, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law and Rules of New York, that I am the individual described herein and who executed this instrument, which is my award.

Date Executed:

July 30, 1999

A handwritten signature in cursive script, appearing to read "James R. Madan", written over a horizontal line.

Signature of James R. Madan
Industry Arbitrator

Date Decision Served by NASD:
(For NASD office use only)

August 10, 1999