

**NASD Regulation, Inc. Office of Dispute Resolution**

Name of Claimant

96-05519

Name of Respondents

**J.S. Securities, Inc.**  
**Jeffrey Stephen Szur**

## REPRESENTATION

Respondents Jeffrey S. Szur ("Szur") and J.S. Securities, Inc. ("JS Securities") were represented by Francine Miller, Esq. and Jeffrey Hoffman, Esq., Hoffman Pollok & Pickholz, New York, NY.

### CASE INFORMATION

JS Securities' Uniform Submission Agreement was signed February 27, 1997.

## HEARING INFORMATION

Hearing Location: NASD Regulation District Office  
Philadelphia, PA

Hearing Dates/Sessions: February 5, 1998/two sessions  
February 6, 1998/two sessions  
February 16, 1998/one session

Hearing Location: Doubletree Hotel  
Philadelphia, PA

#### CASE SUMMARY

Claimant initially instituted this claim against Respondents due to Respondents' failure to reimburse Claimant for various commissions, fees and expense reimbursements rightfully earned during the period of Claimant's registration with JS Securities, Inc. Subsequent to Claimant's initiation of this action, Respondents wrongfully and maliciously filed a Uniform Notice of Securities Industry Registration ("Form U-5") which defamed and substantially damaged Claimant as it appears on his Central Registration Depository ("CRD") records. Accordingly, Claimant amended his Statement of Claim to include a defamation count.

As a result of Respondents' actions, Claimant seeks to recover all monies due and owing him as a result of Respondents' failure to reimburse him for commissions, fees and expenses rightfully earned. Claimant also seeks to recover the substantial damages he has incurred as a result of Respondents' filing of the defamatory Form U-5. Finally, Claimant seeks to have the defamatory Form U-5 removed and expunged from his CRD file.

Respondents denied the allegations of wrong doing as alleged by Claimant. Respondents maintained that the Registered Representative Agreement signed by Claimant, dated September 15, 1994, does not provide that Respondents must charge Claimant its exact cost for clearing charges. In fact, Respondents asserted that it is standard practice in the industry for a broker-dealer to charge its registered representatives more than what the broker-dealer has to pay its clearing firm for ticket charges, since there are back office expenses that are not covered in any other way. In addition, the non-payment of commissions due from Bear Stearns results from a disagreement between Claimant and Bear Stearns. Respondents maintained that they received the commissions from Bear Stearns and they are not due to a registered representative under Respondent receives them from the clearing firm.

Respondents maintained that while Claimant alleged that he voluntarily terminated his association with Respondents by letter dated October 31, 1996, Respondents never saw such a letter until this arbitration. Respondents maintained that Claimant was terminated for cause on February 27, 1997 based on Respondents' investigation that Claimant was involved in an offering "done away" from JS Securities and that he had solicited JS Securities' brokers to sell investments in Claimant's partnerships. Respondents maintained that a Form U-5 was filed, as required, on 27, 1997 and such filing is privileged and not subject to an action for defamation.

#### RELIEF REQUESTED

Claimant requested \$23,410.97 in actual damages, interest, expungement of all defamatory statements from his CRD registration and \$850,000.00 in punitive damages.

Respondents requested that all claims alleged by Claimant be dismissed and that Respondents be awarded attorneys' fees, the costs of this arbitration and that all forum fees be assessed to Claimant.

### 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 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. That Respondents are jointly and severally liable to and shall pay to Claimant \$13,717.44, which is \$1,217.44 for the contract claims and \$12,500.00 for the defamation claim; and
2. That Respondent J.S. Securities, Inc. shall submit a revised and amended Form U-5 to the NASD to reflect that Claimant voluntarily terminated his relationship in October 1966. The Amended Form U-5 shall have boxes 1-7 marked "no" and all references and related documents referencing the Form U-5 dated March 27, 1997 shall be expunged from Claimant's CRD records; and
3. That the claim for punitive damages is denied; and
4. That each party shall bear its own expenses, including attorney's fees, with the exception of the Forum Fees as specified below; and
5. That any and all relief not specifically addressed herein is denied.

### FORUM FEES

Pursuant to Rule 10205(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

9 sessions x \$1,000.00 = \$9,000.00

Forum Fees are assessed to Claimant at \$4,500.00 and to Respondents, jointly and severally, at \$4,500.00.

Claimant receives credit for the \$600.00 hearing session deposit previously submitted to the NASD Regulation, leaving a net Forum Fee assessment due of \$3,900.00.

Respondents are assessed Forum Fees of \$4,500.00.

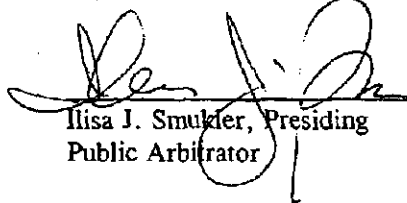
Pursuant to Rule 10333 of the Code Respondent JS Securities, Inc. is assessed a member surcharge of \$300.00.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

DATE

March 4, 1998

CONCURRING ARBITRATORS' SIGNATURES

  
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Ilisa J. Smukler, Presiding  
Public Arbitrator

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Arthur R. G. Solmssen  
Public Arbitrator

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Michael S. Flanagan  
Industry Arbitrator

Date Decision Served by NASD Regulation: March 12, 1998

DATE

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Arthur R. G. Solmsen  
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Arthur R. G. Solmssen  
Public Arbitrator

2-27-98

Michael S. Flanagan  
Michael S. Flanagan  
Industry Arbitrator

Date Decision Served by NASD Regulation:

March 12, 1998