

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

B.J. Dotson and Joyce Supina, (Claimants) vs. Foster Jeffries Securities, LLC,
Frederick J. Hentschel III and Marcus A. Ramos, (Respondents).

Case Number: 99-00147

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimants, B.J. Dotson ("Dotson") and Joyce Supina ("Supina"), hereinafter collectively referred to as "Claimants": P. Kevin Leyendecker, Esq., Moriarty & Associates, Houston, Texas.

Respondent, Foster Jeffries Securities, LLC ("Foster Jeffries"), hereinafter referred to as "Respondent": Scott M. Zucker, Esq., New York until January, 2000 and thereafter, George M. Greco, Jr., Foster Jeffries, Westbury, New York, although a representative did not appear at the hearing.

Respondent, Frederick J. Hentschel III ("Hentschel"), hereafter referred to as "Respondent": did not file any pleadings and did not appear at the hearing.

Respondent, Marcus A. Ramos ("Ramos"), hereafter referred to as "Respondent": did not file any pleadings and did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed on or about: January 12, 1999

Amended Statement of Claim filed on or about: June 15, 1999

Claimant signed the Uniform Submission Agreement: January 14, 1999

Statement of Answer and Motion to Dismiss filed by Respondent, Foster Jeffries, on or about: May 12, 1999

Respondent, Foster Jeffries, signed the Uniform Submission Agreement: May 3, 1999

Response of Claimants to the Motion to Dismiss filed on or about: June 15, 1999

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; breach of fiduciary duty; fraud; breach of contract; violation of Texas Securities Laws; violation of the Texas Deceptive Trade Practices Act; negligent supervision; hiring, training and respondeat superior; and gross negligence. The causes of action relate to the purchase of Electronics Communications Corporation (ELCC) stock.

Unless specifically admitted in its Answer, Respondent Foster Jeffries denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a cause of action; Claimants were sophisticated and active traders who were aware of the risks; ratification; Claimants assumed the risks of all transactions and were estopped from asserting the claim; any losses suffered were not caused by any act, lack of due care, and/or negligence by Respondent but were the result of Claimants own active, affirmative, negligent and/or culpable conduct; any losses were the result of persons, entities or market conditions beyond the Respondent's control; failure to mitigate; Respondent was not a guarantor of profits or losses in this account or any account; the claim for attorneys' fees was barred under New York law; and Claimants failed to plead with particularity specific facts underlying the elements for action based on fraud.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

Compensatory Damages	\$155,000
Punitive Damages	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	unspecified

Respondent, Foster Jeffries, requested:

Dismissal	
Other Monetary/Non-Monetary Relief if any:	unspecified

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by/on behalf of the Claimants, the undersigned Panel determined that Respondents, Foster Jeffries Securities, LLC, Frederick J. Hentschel, III and Marcus A. Ramos, had been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents, Frederick J. Hentschel, III and Marcus A. Ramos, did not file with the NASD Regulation, Inc. Office of Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

The parties present at the hearing 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 has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Foster Jeffries Securities, LLC, Frederick J. Hentschel III and Marcus A. Ramos, are jointly and severally liable for and shall pay Claimant, B.J. Dotson, \$135,955 in actual damages plus simple interest at the rate of 8% per annum beginning on January 21, 2000 until paid;
2. Respondents, Foster Jeffries Securities, LLC, Frederick J. Hentschel III and Marcus A. Ramos, are jointly and severally liable for and shall pay Claimant, Joyce Supina, \$12,213 in actual damages plus simple interest at the rate of 8% per annum beginning on January 21, 2000 until paid. The Panel has made a determination to invalidate the entire ELCC transactions;
3. Respondents, Foster Jeffries Securities, LLC, Frederick J. Hentschel III and Marcus A. Ramos, are jointly and severally liable for and shall pay Claimant, B.J. Dotson, \$30,000 in punitive damages. In deciding to award punitive damages, the panel considered the pleadings, the testimony and the evidence along with the Texas Business and Commerce Code which was the legal authority provided by the Claimants;
4. Respondents, Foster Jeffries Securities, LLC, Frederick J. Hentschel III and Marcus A. Ramos, are jointly and severally liable for and shall pay Claimant, Joyce Supina, \$10,000 in punitive damages. In deciding to award punitive damages, the panel considered the pleadings, the testimony and the evidence along with the Texas Business and Commerce Code, the legal authority provided by the Claimants;
5. Respondents, Foster Jeffries Securities, LLC, Frederick J. Hentschel III and Marcus A. Ramos, are jointly and severally liable for and shall pay Claimant, B.J. Dotson, \$10,000 in attorneys' fees. In deciding to award attorneys' fees, the panel considered the pleadings, the testimony and the evidence presented by the hearing as well as the provisions contained in the contract between the parties;
6. Respondents, Foster Jeffries Securities, LLC, Frederick J. Hentschel III and

Marcus A. Ramos, are jointly and severally liable for and shall pay Claimant, Joyce Supina, \$4,000 in attorneys' fees. In deciding to award attorneys' fees, the panel considered the pleadings, the testimony and the evidence presented by the hearing as well as the provisions contained in the contract between the parties; and

7. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, 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	= \$200
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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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$750	= \$750
Pre-hearing conference: October 19, 1999	1 session

Two (2) Hearing sessions x \$750	= \$1,500
Hearing Date: January 20, 2000	2 sessions

Total Forum Fees	= \$2,250
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1. The Panel has assessed \$2,250 of the forum fees jointly and severally to Foster Jeffries Securities LLC, Frederick J. Hentschel III and Marcus A. Ramos.

Fee Summary

1. Claimants, B.J. Dotson and Joyce Supina, be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$200
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Total Fees	= \$200
Less payments	= \$950
Refund	= \$750

2. Respondents, Foster Jeffries Securites, LLC, Frederick J. Hentschel III
and Marcus A. Ramos, be and hereby are jointly and severally liable for:

Forum Fees = \$2,250

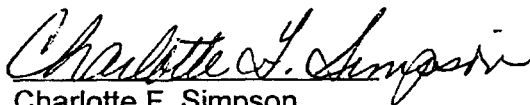
Total Fees = \$2,250

Less payments = \$0

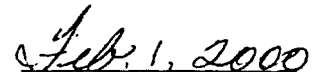
Balance Due NASD Regulation, Inc. = \$2,250

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures



Charlotte F. Simpson
Public Arbitrator, Presiding Chair


Signature Date

Gordon W. Hall, Esq.
Public Arbitrator

Signature Date

John C. Russell
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

2. Respondents, Foster Jeffries Securites, LLC, Frederick J. Hentschel III
and Marcus A. Ramos, be and hereby are jointly and severally liable for:

Forum Fees = \$2,250

Total Fees = \$2,250

Loss payments = \$0

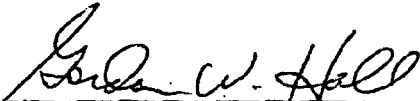
Balance Due NASD Regulation, Inc. = \$2,250

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

Charlotte F. Simpson
Public Arbitrator, Presiding Chair

Signature Date



Gordon W. Hall, Esq.
Public Arbitrator

1-31-2000

Signature Date

John C. Russell
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

2. Respondents, Foster Jeffries Securites, LLC, Frederick J. Hentschel III
and Marcus A. Ramos, be and hereby are jointly and severally liable for:

Forum Fees	= \$2,250
<hr/> Total Fees	= \$2,250
<u>Less payments</u>	= \$0
Balance Due NASD Regulation, Inc.	= \$2,250

All balances are due to NASD Regulation, Inc.

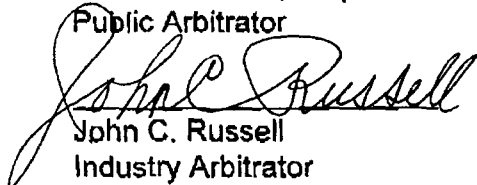
Concurring Arbitrators' Signatures

Charlotte F. Simpson
Public Arbitrator, Presiding Chair

Signature Date

Gordon W. Hall, Esq.
Public Arbitrator

Signature Date


John C. Russell
Industry Arbitrator

2/1/00
Signature Date

Date of Service (For NASD office use only)