

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between

Names of Claimants

Robert and Cynthia Bielling

Case No. 99-02726

Names of Respondents

The Golden, Lender Financial Group, Inc.  
Tomer M. Yuzary  
Iosif Pak  
Roman Sakharovich  
Lee M. Solomon, Jr.  
Konstantin Tokar  
Jean O. Brutus

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**REPRESENTATION OF PARTIES**

For Robert and Cynthia Bielling ("Claimants"): Kenneth P. Hazouri, Esq. of Drage, de Beaubien, Knight, Simmons, Romano & Neal, Orlando, FL.

For Respondents The Golden, Lender Financial Group, Inc. ("GLFG"), Tomer Yuzary ("Yuzary"), Iosif Pak a/k/a Joseph Pak ("Pak"), and Roman Sakharovich a/k/a Roman Sakh ("Sakh"): Foster J. Gibbons, General Counsel, The Golden, Lender Financial Group, Inc., New York, NY until April 7, 2000. Thereafter, Respondents GLFG, Yuzary, Pak, and Sakh were represented by Dan A. Druz, Esq., Manasquan, NJ.

Respondent Lee Solomon ("Solomon") appeared pro se.

Respondent Jean Brutus ("Brutus") did not appear in this matter.

For Respondent Konstantin Tokar ("Tokar"): Brad S. Maistrow, Esq. of Meyers & Maistrow, New York, NY.

**CASE INFORMATION**

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

Claimants signed the Uniform Submission Agreement: May 6, 1999.

Joint Statement of Answer filed by Respondents GLFG, Yuzary, Pak, and Sakh on or about: August 18, 1999.

Statement of Answer filed by Respondent Solomon on or about: August 18, 1999.

Respondents GLFG, Yuzary, Pak, Sakh, and Solomon signed Uniform Submission Agreements: August 16, 1999.

Respondents Brutus and Tokar did not file Statements of Answer (see "Other Issues"). Respondents Brutus and Tokar did not file Uniform Submission Agreements (see "Other Issues").

### **CASE SUMMARY**

Claimants alleged the following: Respondents made imprudent investments in Claimants' accounts, provided unlawful and improper investment advice, violated Florida Statutes Sections 772.103 and 517.07, churned Claimants' accounts, violated Florida's Deceptive and Unfair Trade Practices Act, and charged excessive commissions. In addition, Respondents were negligent, breached their fiduciary duty, and defrauded Claimants.

Unless specifically admitted in their Answers, Respondents GLFG, Yuzary, Pak, Sakh, and Solomon denied the allegations made in the Statement of Claim and, among other allegations and affirmative defenses, alleged the following: Claimants always exercised control over their accounts and expressly authorized all transactions posted to their accounts. Further, Respondents GLFG, Yuzary, Pak, Sakh, and Solomon did not cause the losses sustained in Claimants' accounts.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of between \$100,000.00 and \$500,000.00, interest, punitive damages of \$205,286.28, costs, attorneys' fees, a complete accounting of the activity that occurred in Claimants' accounts, the return of the \$2,000.00 in purchase monies the Claimants paid for the shares of GLFG, rescission of the purchase of 2000 shares of GLFG, and any other relief the Panel deemed necessary and proper.

Respondents GLFG, Yuzary, Pak, and Sakh requested that the Statement of Claim be dismissed plus costs, attorneys' fees, and in the event that any Respondent is found to be liable, that any award based on such finding be solely against such Respondent and not jointly or severally against all Respondents.

Respondent Solomon requested that the Statement of Claim be dismissed plus costs, and attorneys' fees.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondents GLFG, Yuzary, Pak, Sakh, Solomon, Tokar, and Brutus did not attend the evidentiary hearing in this matter. Upon review of the file and the representations made by/on behalf of the Claimants, the Panel determined that Respondents GLFG, Yuzary, Pak, Sakh, Solomon, Tokar, and Brutus had been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration in this matter would proceed

without said Respondents present, in accordance with the NASD-DR Code of Arbitration Procedure (the "Code").

Respondents Tokar and Brutus did not file with NASD Dispute Resolution, Inc. 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 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:

Respondents are liable, jointly and severally, and shall pay to the Claimants compensatory damages in the sum of \$175,000.00, pre-judgment interest specifically excluded.

Respondents are liable, jointly and severally, and shall pay to the Claimants punitive damages in the sum of \$262,500.00 pursuant to Florida Statutes Section 507 pertaining to "churning".

Respondents are liable, jointly and severally, and shall pay to the Claimants attorneys' fees in an amount to be determined by a court of competent jurisdiction pursuant to Florida Statutes Section 517.301.

Respondents are liable, jointly and severally, and shall pay to the Claimants the sum of \$300.00 representing reimbursement of the claim filing fee previously paid by Claimants to NASD Dispute Resolution, Inc.

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	= \$ 300.00
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#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm, GLFG, is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

#### **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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with a single arbitrator x \$450.00	= \$1,350.00
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Pre-hearing conferences:	April 20, 2000	1 session
	May 5, 2000	1 session
	June 9, 2000	1 session

One (1) Pre-hearing session with Panel x \$1,125.00	= \$1,125.00
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Pre-hearing conference:	March 2, 2000	1 session
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One (1) Hearing session x \$1,125.00	= <u>\$1,125.00</u>
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Hearing Date:	<u>June 21, 2000</u>	<u>1 session</u>
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Total Forum Fees	= \$3,600.00
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The Panel has assessed the total forum fees of \$3,600.00 to Respondents.

#### **Fee Summary**

Claimants be and hereby are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
Total Fees	= \$ 300.00
<u>Less payments</u>	= \$ 300.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent GLFG be and hereby is solely liable for:

<u>Member Fees</u>	= \$4,600.00
Total Fees	= \$4,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$4,600.00

Respondents be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$3,600.00
Total Fees	= \$3,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$3,600.00

All balances are due and payable to NASD Dispute Resolution, Inc.

**Concurring Arbitrators' Signatures**

/s/

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Joel Lee Glasco  
Industry Arbitrator, Presiding Chair

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Signature Date

/s/

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Alexander J. Fedor  
Public Arbitrator

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Signature Date

/s/

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Brendan M. Murphy  
Public Arbitrator

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Signature Date

August 2, 2000

Date of Service (For NASD-DR office use only)

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

  
Joel Lee Glasco  
Industry Arbitrator, Presiding Chair

8-1-00  
Signature Date

Alexander J. Fedor  
Public Arbitrator

Signature Date

Brendan M. Murphy  
Public Arbitrator

Signature Date


Date of Service (For NASD-DR office use only)

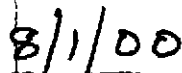
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Industry Arbitrator, Presiding Chair

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Signature Date

  
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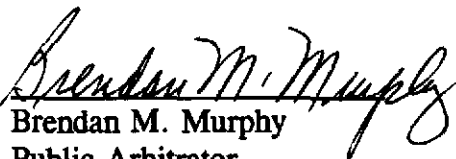
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