

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

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In the Matter of the Arbitration Between

Name of Claimant

Herbert Allen

Case No. 99-04662

Name of Respondent

JW Genesis Securities, Inc.

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**REPRESENTATION OF PARTIES**

Herbert Allen ("Allen"), hereinafter also referred to as "Claimant", appeared pro se.

For J.W. Genesis Securities, Inc.. ("JW Genesis"), hereinafter also referred to as "Respondent":  
Gregory Tendrich, Esq. of JW Genesis Securities, Inc., Boca Raton, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: October 9, 1999.

Claimant signed the Uniform Submission Agreement on: October 9, 1999.

Statement of Answer filed by Respondent on or about: January 4, 2000.

Respondent's Uniform Submission Agreement signed on: January 4, 2000 by Gregory  
Tendrich, Esq., Assistant General Counsel, on behalf of the firm.

**CASE SUMMARY**

Claimant alleged that his broker at JW Genesis failed to comply with his investment objectives with respect to his \$10,000.00 investment in Nike Securities. LP High-Yield Corporate Closed End portfolio Series FT 320 ("Nike Trust"), which resulted in substantial losses. Claimant alleged that JW Genesis should be held responsible for the actions of its employee.

Unless specifically admitted in its Answer, Respondent JW Genesis denied the allegations of wrongdoing contained in the Statement of Claim and maintained that JW Genesis should not be held accountable for Claimant's failure to mitigate damages and that JW Genesis should not be required to insure losses on an investment which was fully and fairly disclosed to Claimant.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$10,000.00 plus costs of \$500.00.

Respondent JW Genesis requested that the Statement of Claim be denied in its entirety.

### **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, and the post-hearing submissions (if any), the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent JW Genesis is found not liable and, therefore, all claims against it are hereby denied.
2. All requests for relief not specifically addressed herein are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 75.00
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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 that employed the associated person at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$300.00
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#### **Forum Fees and Assessments**

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

One (1) Hearing session x \$250.00 = \$250.00  
Hearing Date: April 17, 2001 1 sessions  
Total Forum Fees = \$250.00

The Panel has assessed the total forum fees of \$250.00 to Respondent JW Genesis.

**Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee = \$ 75.00  
Total Fees = \$ 75.00  
Less payments = \$ 75.00  
Balance Due NASD Dispute Resolution, Inc. = \$ 00.00

Respondent JW Genesis be and hereby is solely liable for:

Member Fees = \$300.00  
Forum Fees = \$250.00  
Total Fees = \$550.00  
Less payments = \$150.00  
Balance Due NASD Dispute Resolution, Inc. = \$400.00

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the Parties.

**ARBITRATOR**

*Donald M. Homer, JD*

*Sole Public Arbitrator*

**Concurring Arbitrator's Signature**

*D. M. Homer*

*June 1, 2001*

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Donald M. Homer, JD  
Public Arbitrator

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Signature Date

June 1, 2001  
Date of Service (For NASD-DR office use only)