

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:  
Rayburn Enterprises, Ltd., Mesri 2001 Irrevocable Trust, and Nahid Salim, Claimants v.  
HSBC Securities (USA) Inc., Respondent

Case Number: 06-01998

Hearing Site: Los Angeles, California

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Nature of the Dispute: Customers v. Member

**REPRESENTATION OF PARTIES**

For Claimants:

Michael D. Dempsey, Esq.  
Dempsey & Johnson, P.C.  
Los Angeles, California

For Respondent:

Meredith L. Friedman, Esq.  
HSBC Securities  
New York, New York

**CASE INFORMATION**

Statement of Claim filed: April 18, 2006

Amended Statement of Claim filed: June 28, 2006

Claimants' Joint Uniform Submission Agreement signed: April 10, 2006

Statement of Answer filed by Respondent: June 27, 2006

Statement of Answer to Amended Statement of Claim filed: July 17, 2006

Respondent's Uniform Submission Agreement signed: June 26, 2006

### **CASE SUMMARY**

In the Statement of Claim, Claimants alleged unsuitability, negligent misrepresentation, breach of contract, breach of fiduciary duty, and omission of facts, involving investments in Bayerische Landesbank and BNP Banque Paribas structured notes. In the Amended Statement of Claim, Claimants added the allegation of failure to supervise.

In the Statements of Answer, Respondent denied the allegations of wrongdoing set forth in Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested \$733,294.00 in compensatory damages, pre-Award interest, present value of future dollar losses, immediate buy-back by Respondent of the structured notes with full return of \$15,250,000.00 in principal, and attorney's fees.

In the Statements of Answer, Respondent requested dismissal of Claimants' Statement of Claim in its entirety.

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

On June 28, 2006, Claimants filed an Amended Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(a).

The Panel noted that Claimants also named HSBC Brokerage (USA) Inc. as a Respondent in the Statements of Claim. In the Statement of Answer, Respondent stated that HSBC Brokerage (USA) Inc. was merged into Respondent HSBC Securities (USA) Inc. and no longer exists. Respondent further stated that, to the extent necessary, the Statement of Answer is also submitted on behalf of HSBC Brokerage (USA) Inc.

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

- 1) Claimant Nahid Salim's claims are dismissed with prejudice.
- 2) Claimants Rayburn Enterprises, Ltd. and Mesri 2001 Irrevocable Trust's claims are dismissed with prejudice, except claims for negligent misrepresentation and omission of facts, to be awarded as follows:
  - a) Respondent is liable to and shall pay Claimant Rayburn Enterprises, Ltd. the sum of \$517,334.00 in compensatory damages.
  - b) Respondent is liable to and shall pay Claimant Mesri 2001 Irrevocable Trust the sum of \$258,667.00 in compensatory damages.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm HSBC Securities (USA) Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 4,000.00</u>
<b>Total Member Fees</b>	<b>= \$ 7,000.00</b>

**Forum Fees and Assessments**

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A 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 conference session with one arbitrator @ \$450.00/session	= \$	450.00
Pre-hearing conference: December 18, 2006	1 session	
1 Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$	1,200.00
Pre-hearing conference: September 19, 2006	1 session	
8 Hearing sessions @ \$1,200.00/session	= \$	9,600.00
Hearings: May 1, 2007	2 sessions	
May 2, 2007	2 sessions	
May 3, 2007	2 sessions	
May 4, 2007	2 sessions	

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**Total Forum Fees** = **\$11,250.00**

The Panel assessed \$11,250.00 of the forum fees to Respondent.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimants requested 170 photocopies @ \$0.25 each: = \$ 42.50

**Fee Summary**

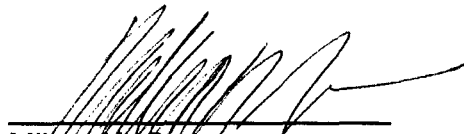
1. Claimants are charged jointly and severally with the following fees and costs:	
Initial Filing Fee	= \$ 375.00
Administrative Costs	= \$ 42.50
Total Fees	= \$ 417.50
Less payments	= \$(1,575.00)
<b>Refund Due Claimants</b>	<b>= \$(1,157.50)</b>
2. Respondent is charged with the following fees and costs:	
Member Fees	= \$ 7,000.00
Forum Fees	= \$11,250.00
Total Fees	= \$18,250.00
Less payments	= \$(7,000.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$11,250.00</b>

All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Milton N. Gross	-	Public Arbitrator, Presiding Chair
Jill E. Olofson	-	Public Arbitrator
Madina C. Boland	-	Non-Public Arbitrator

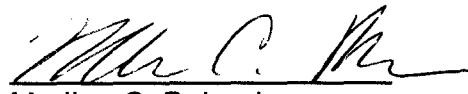
**Concurring Arbitrators' Signatures**

  
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Milton N. Gross  
Chair, Public Arbitrator

5/4/07  
Signature Date

  
\_\_\_\_\_  
Jill E. Olofson  
Public Arbitrator

5/4/07  
Signature Date

  
\_\_\_\_\_  
Madina C. Boland  
Non-Public Arbitrator

5-04-07  
Signature Date

5/4/07  
Date of Service