

JP Morgan Ordered to Pay Blavatnik \$42.5M

By [The Moscow Times](#)

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NEW YORK — A New York state judge found JPMorgan Chase & Co liable to Russian-American billionaire Leonard Blavatnik for breach of contract for stuffing an investment account he held with risky subprime mortgage securities and ordered the bank to pay more than \$50 million of damages including interest.

In a decision made public this week, New York State Supreme Court Justice Melvin Schweitzer ordered the largest U.S. bank to pay \$42.5 million on the breach of contract claim, plus 5 percent annual interest starting in May 2008.

The Manhattan judge also found JPMorgan was not liable for negligence. His decision was dated Aug. 21 and came about seven months after a three-week, non-jury trial.

Blavatnik had sued JPMorgan in 2009 to recover more than \$100 million that he said the New York-based bank lost on a roughly \$1 billion investment by CMMF LLC, a fund created by his

firm, Access Industries Group.

The decision comes as JPMorgan faces a swirl of other litigation and investigations, including into its handling of mortgage-related businesses during the financial crisis.

According to Blavatnik, JPMorgan Investment Management, or JPMIM, promised that it would invest Access' money conservatively after opening the account in 2006.

Instead, the bank allegedly breached a 20 percent limit set for mortgage-backed securities by misclassifying securities backed by a pool of subprime loans, known as ABS-home equity loans, as asset-backed rather than mortgage-backed securities.

Access also accused JPMorgan of continuing to hold the troubled securities despite knowing they were inappropriate for the portfolio. CMMF closed the account in May 2008.

In finding JPMorgan liable for exceeding the 20 percent cap, Schweitzer rejected the bank's argument that "industry practice" was to classify the home equity loans separately from mortgage securities because they carried different risks.

"Not only was the ostensible 'industry practice' to which JPMIM repeatedly refers unknown to CMMF, JPMIM itself frequently defined securities backed by subprime mortgages as 'mortgage securities' and not as asset-backed securities — and did so in some of its most important documents used with regulators, ... clients, ... shareholders ... and internally," he wrote.

"Right Thing to Do"

In ruling for JPMorgan on the negligence claim, Schweitzer said the mortgage securities were considered "relatively safe and desirable" when they were bought, and that JPMorgan acted reasonably in light of current conditions when it advised CMMF to "wait out the storm" rather than sell at depressed prices.

JPMorgan spokesman Doug Morris said: "We are pleased that the court rejected CMMF's negligence claims and found that our investment professionals lived up to their responsibilities. We respectfully disagree with the court's interpretation of our agreement with CMMF, and we are considering our options regarding that finding."

David Elsberg, a partner at Quinn Emanuel Urquhart & Sullivan representing Blavatnik, said in an interview: "Hopefully it signals that banks need to live up to their obligations to clients, and as the court makes clear, not hide behind what they often try to refer to as 'industry practice.'"

Blavatnik also welcomed the decision. "There are a lot of people out there who, I understand, feel they have been wronged by JPMorgan but cannot afford to take on a huge bank. They shouldn't have to," he said in a statement. "JPMorgan should do the right thing because it is the right thing to do."

Blavatnik is worth about \$16 billion, making him the world's 44th richest person, Forbes magazine said in March.

The case is CMMF LLC v. JPMorgan Investment Management Inc, New York State Supreme Court, New York County, No. 601924/2009.

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