
Stipulated Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Name of Claimant:

Ruth S. Chenoweth, Individually and as
Trustee of the Ruth S. Chenoweth Trust
U/A dtd 10/21/94

Case No: 00-01030

Names of Respondents:

S.G. Cowen Securities Corporation
and Edward Ian Herbst

Hearing Site: Boca Raton, Florida

REPRESENTATION OF PARTIES

For Ruth S. Chenoweth, Individually and as Trustee of the Ruth S. Chenoweth Trust ("Claimant"): Glenn D. Kelley, Esq. of Kelley & Warren, P.A., West Palm Beach, Florida.

For Respondent S.G. Cowen Securities Corporation ("Cowen"): Bradford D. Kaufman, Esq. of Greenberg Traurig, P.A., West Palm Beach, Florida.

For Respondent Edward Ian Herbst ("Herbst"): Lawrence S. Bader, Esq. of Morvillo, Abramowitz, Grand, Iason & Silberberg, New York, New York.

CASE INFORMATION

Claimant signed the Uniform Submission Agreement on: February 25, 2000.

Statement of Claim filed on or about: March 8, 2000.

Respondent Cowen's Statement of Answer filed on or about: May 25, 2000.

Respondent Herbst's Statement of Answer filed on or about: June 2, 2000.

Respondent Cowen did not sign a Uniform Submission Agreement.

Respondent Herbst did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action in connection with the unsuitable recommendation and/or purchase of derivatives and a variety of unspecified securities: (1) breach of fiduciary duty; (2) common law fraud; (3) negligence, gross negligence and negligent supervision; (4) violation of Florida securities laws and Investor Protection Act (Chapter 517, Florida Statutes); (5) violation of the Racketeer Influenced and Corrupt Organization Act (RICO); and, (6) breach of contract.

Respondent Cowen denied the allegations of wrongdoing set forth in the Statement of Claim, asserted a variety of affirmative defenses, and filed a Motion for Compliance with Section 10314 of the NASD Code of Arbitration Procedure (the "Code")

Respondent Herbst denied the allegations of wrongdoing set forth in the Statement of Claim, asserted a variety of affirmative defenses, and concurred with Respondent Cowen's Motion for Compliance with Section 10314 of the Code.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$500,000.00 (including well-managed account damages); treble damages under RICO; punitive damages; costs; and, a referral of the issue of attorney's fees to a court of competent jurisdiction.

Respondent Cowen requested that the Panel dismiss the Statement of Claim in its entirety.

Respondent Herbst requested that the Panel dismiss the Statement of Claim in its entirety, and award such other relief as the Panel may deem proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about August 28, 2001, the parties advised NASD Dispute Resolution, Inc. ("NASDR") that they had reached an amicable settlement of all claims and filed a proposed stipulated award (the "Stipulated Award") signed by all parties, requesting an order from the Panel expunging all references to this matter from Respondent Herbst's NASD Central Registration Depository ("CRD") records.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award, while the original remains on file with NASDR.

AWARD

After considering the pleadings and the Stipulation, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel recommends the expungement of all references to the above captioned arbitration from the CRD records of Respondent Herbst, with the understanding that, pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Herbst must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 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 that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm 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 has the authority to assess 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 a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference date: February 14, 2001 1 session	

One (1) Pre-hearing session with the Panel x \$1,125.00	= \$1,125.00
Pre-hearing conference date: September 20, 2000 1 session	

Total Forum Fees	= \$1,575.00
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The Panel assessed \$525.00 of the forum fees against Claimants, jointly and severally; \$525.00 of the forum fees against Respondent Cowen; and, \$525.00 of the forum fees against Respondent Herbst.

Fee Summary

Claimant be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 525.00
Total Fees	= \$ 825.00
Less payments	= \$ 825.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent Cowen be and hereby is solely liable for:

Forum Fees	= \$ 525.00
Member Fees	= \$4,600.00
Total Fees	= \$5,125.00
Less payments	= \$5,125.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent Herbst be and hereby is solely liable for:

Forum Fees	= \$ 525.00
Total Fees	= \$ 525.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 525.00

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

ARBITRATORS

Perry Phillips	-	Public/Presiding Chair
Richard J. Kaplan, Esq.	-	Public/Panelist
Dominic P. Romano	-	Non-Public/Panelist

Concurring Arbitrators' Signatures

_____/s/_____
Perry Phillips
Public Arbitrator, Presiding Chair

10/15/01
Signature Date

_____/s/_____
Richard J. Kaplan, Esq.
Public Arbitrator

10/16/01
Signature Date

_____/s/_____
Dominic P. Romano
Non-Public Arbitrator

10/16/01
Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 00-01030
Award Page 5

October 18, 2001

Date of Service (For NASD-Dispute Resolution office use only)

Fee Summary

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Richard J. Kaplan, Esq.	-	Public/Panelist
Dominic P. Romano	-	Non-Public/Panelist

Concurring Arbitrators' Signatures


Perry Phillips
Public Arbitrator, Presiding Chair

10/15/01
Signature Date

Richard J. Kaplan, Esq.
Public Arbitrator

Signature Date

Dominic P. Romano
Non-Public Arbitrator

Signature Date

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ARBITRATORS

Perry Phillips	-	Public/Presiding Chair
Richard J. Kaplan, Esq.	-	Public/Panelist
Dominic P. Romano	-	Non-Public/Panelist

Concurring Arbitrators' Signatures

Perry Phillips
Public Arbitrator, Presiding Chair

Signature Date

Richard J. Kaplan, Esq.
Public Arbitrator

Signature Date

Dominic P. Romano
Non-Public Arbitrator

Signature Date

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ARBITRATORS

Perry Phillips	-	Public/Presiding Chair
Richard J. Kaplan, Esq.	-	Public/Panelist
Dominic P. Romano	-	Non-Public/Panelist

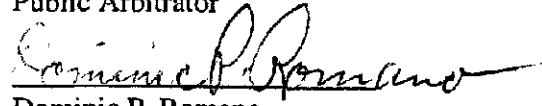
Concurring Arbitrators' Signatures

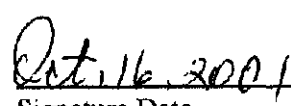
Perry Phillips
Public Arbitrator, Presiding Chair

Signature Date

Richard J. Kaplan, Esq.
Public Arbitrator

Signature Date


Dominic P. Romano
Non-Public Arbitrator


Signature Date

RECEIVED

AUG 29 2001

FL ARBITRATION

BEFORE THE
NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

-----X
In the Matter of the Arbitration Between: :

RUTH S. CHENOWETH Individual and as Trustee :
of the RUTH S. CHENOWETH TRUST, : NASD Case No. 00-01030
:
Claimant, :
:
- against - :
:
S.G. COWEN SECURITIES CORPORATION :
and EDWARD IAN HERBST, :
:
Respondents. :
-----X

STIPULATED AWARD

REPRESENTATION

Claimant was represented by Glenn D. Kelley, Esq. of the law firm of Kelley & Warren, P.A. located in West Palm Beach, Florida.

Respondent S.G. Cowen Securities Corporation was represented by Bradford D. Kaufman, Esq. of the law firm of Greenberg Traurig, P.A. in West Palm Beach, Florida.

Respondent Edward Ian Herbst was represented by Lawrence Bader, Esq. of the law firm of Morvillo, Abramowitz, Grand, Iason & Silberberg, P.C. in New York.

CASE INFORMATION

The Statement of Claim was filed in or about April 2000, along with Claimant's Uniform Submission Agreements. The respondents then filed responsive pleadings denying liability and seeking dismissal of the claims against them.

HEARING INFORMATION

The panel conducted prehearing conferences on September 20, 2000 and February 14, 2001. No evidentiary hearing was held due to the fact that the parties notified the NASD that they had reached an amicable settlement of the matter.

CASE SUMMARY

The claimant alleged a series of misrepresentations and omissions in connection with the purchase of securities in her account in violation of federal law and Florida law, the NASD Rules of Fair Practice, and common law duties. The respondents denied liability.

RELIEF REQUESTED

Claimant sought damages in an unspecified amount; respondents requested that the Statement of Claim be denied in its entirety.

AWARD

After considering the pleadings and the parties' joint request for expungement, the undersigned arbitrators have decided in full and final resolution of the issues submitted for arbitration as follows:

Based upon the merits of this case, the panel hereby orders that all references to this arbitration be expunged by NASD Regulation Inc. from respondent Edward Ian Herbst's permanent CRD records.

We hereby consent to the form and entry of the within Stipulated Award.

KELLEY & WARREN, P.A.

By: 

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GREENBERG TRAURIG, P.A.

By: 

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MORVILLO, ABRAMOWITZ, GRAND,
IASON & SILBERBERG, P.C.

By: 

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