

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

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In the Matter of the Arbitration Between:

Simon Goren, (Claimant) vs. Wall Street Equities, Inc., Frank Cullen, and Julian Alvarez, (Respondents)

Case Number: 01-00068

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimant, Simon Goren, hereinafter referred to as "Claimant", appeared *pro se*.

Respondents, Wall Street Equities, Inc. ("WSE"), Frank Cullen ("Cullen"), and Julian Alvarez ("Alvarez"), hereinafter collectively referred to as "Respondents": Frank Cullen, Principal, Wall Street Equities, Inc., New York, NY. Previously represented by: Ronald E. Berti, Director of Compliance, Wall Street Equities, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: January 5, 2001.

Claimant signed the Uniform Submission Agreement: January 5, 2001.

Joint Statement of Answer filed by Respondents on or about: March 26, 2001.

WSE signed the Uniform Submission Agreement: April 10, 2001.

Cullen signed the Uniform Submission Agreement: April 10, 2001.

Alvarez signed the Uniform Submission Agreement: April 10, 2001.

**CASE SUMMARY**

Claimant asserted the following causes of action: incorrect execution price; unsuitability; misrepresentations; failure to disclose material facts; fraud; unauthorized removal of funds from Claimant's account; violations of NASD rules; overcharge of commissions; and unethical practices. Claimant's claim involved the stocks of AML Communications and United Companies Financial Corp.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: WSE at all times adhered to all rules and regulations of the securities industry; WSE personnel always interacted with Claimant in a professional and tolerant manner; Claimant's complaint regarding the execution of AML Communications underscores his continued refusal to understand that markets can and do change from the time an order is given, to the time it is presented to a market maker for

execution, and until the actual execution of the order; Claimant's actions constitute an attempted extortion by Claimant from WSE; in its dealings with Claimant, WSE went considerably beyond the level of service dictated by applicable rules and regulations; Claimant is a fabricator of stories, misapplies the rules of fair practice, and will not accept any reality which would indicate anything other than his point of view; all orders in Claimant's account were accepted on an unsolicited basis and executed on an agency basis at the best possible price at the time; each and every one of the actions taken by WSE and/or its employees were done primarily for the benefit of Claimant; and Claimant's request for punitive damages is inappropriate in arbitration.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$30,000.00, and punitive damages in the amount of \$20,000.00.

Respondents requested that Claimant's claims be dismissed.

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

Respondent Cullen appeared at the hearing and advised that he was representing the interests of all Respondents as Principal of WSE. Respondent Alvarez was not present at the hearing. Upon review of the file, the undersigned arbitrator (the "Arbitrator") determined that all Respondents have been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without all Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

At the hearing in this matter, Claimant refused to be sworn in by the Arbitrator before first reading a prepared statement. The parties agreed that Claimant be permitted to read the statement off the record. After Claimant concluded with the statement, the Arbitrator again attempted to swear Claimant in. Claimant advised that he would not be participating in the hearing. The Arbitrator advised Claimant that the hearing would continue in his absence, and Claimant stated that he understood. Claimant then left the hearing. The Arbitrator then proceeded to swear in, and hear testimony from, Respondent Cullen.

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, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby dismissed in their entirety.
2. All other requests for relief are hereby 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	= \$ 175.00
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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 events giving rise to the dispute. In this matter, Wall Street Equities, Inc. is a party.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

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

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00	= \$ 900.00
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Pre-hearing conferences:	August 24, 2001	1 session
	February 21, 2002	1 session

Two (2) Hearing sessions x \$450.00	= \$ 900.00
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Hearing Date:	June 20, 2002	2 sessions
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Total Forum Fees	= \$1,800.00
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1. The Arbitrator has assessed \$900.00 of the forum fees against Claimant.
2. The Arbitrator has assessed \$900.00 of the forum fees against WSE.

**Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 175.00
<u>Forum Fees</u>	= \$ 900.00
Total Fees	= \$1,075.00
<u>Less payments</u>	= \$ 640.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 435.00

2. WSE be and hereby is solely liable for:

Member Fees	= \$2,400.00
<u>Forum Fees</u>	= \$ 900.00
Total Fees	= \$3,300.00
<u>Less payments</u>	= \$2,400.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 900.00

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

**ARBITRATION PANEL**

Steven D. Leader

Public Arbitrator

**Arbitrator's Signature**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Steven D. Leader  
Public Arbitrator

July 12, 2002  
Signature Date

July 18, 2002  
Date of Service (For NASD office use only)