

**Award  
NASD**

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In the Matter of the Arbitration Between:

Isabel K. Coyle-Sesty, Claimant v. Werbel-Roth Securities, Inc. and Michael L. Zaccaro,  
Respondents

Case Number: 01-02328

Hearing Site: Boca Raton, Florida

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**REPRESENTATION OF PARTIES**

For Isabel K. Coyle-Sesty, hereinafter referred to as "Claimant": Melanie S. Cherdack, Esq.,  
Genovese Lichtman Joblove & Battista, Miami, FL.

For Werbel-Roth Securities, Inc. ("WRS") and Michael L. Zaccaro ("Zaccaro"), hereinafter  
referred to as Respondents: David A. Baugh, Esq., Mora, Baugh, Waitzman & Ungar, Chicago,  
IL. On or about June 6, 2002, David Baugh withdrew as counsel for Respondents. Neil S.  
Baritz, Esq., Dreier Baritz & Colman, Boca Raton, FL. filed a notice of appearance on August  
15, 2002. On or about September 11, 2002, Neil Baritz withdrew as counsel for Respondents.  
Thereafter, Respondents appeared pro se.

**CASE INFORMATION**

Statement of Claim filed on or about: May 3, 2001.

Claimant's Uniform Submission Agreement signed: April 22, 2001.

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

Respondent WRS's Uniform Submission Agreement signed: June 21, 2001.

Respondent Zaccaro's Uniform Submission Agreement signed: May 30, 2001.

**CASE SUMMARY**

Claimant alleged the following causes of action: 1) unauthorized and unsuitable trading; 2)  
violations of section 10(b) of the Securities Exchange Act of 1934; 3) breach of fiduciary duty; 4)  
negligence; 5) fraud; 6) negligent supervision/respondeat superior; and 7) breach of NASD and  
NYSE rules. The causes of action relate to the sale of securities of Allstate Corporation, Morgan  
Stanley Dean Witter & Co., Sears Roebuck, and Exxon, and the purchase of securities of  
Uniservice Corp of Florida, Frontline Communications, and American Express.

Unless specifically admitted in their Statement of Answer, Respondents denied the allegations of  
wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative  
defenses.

**RELIEF REQUESTED**

Claimant requested in her Statement of Claim: 1) compensatory damages in the amount of \$100,000.00; 2) punitive damages in the amount of \$300,000.00; 3) churning damages in the amount of \$30,000.00 (\$20,000.00 + \$10,000.00); 4) interest; 5) attorneys' fees; and 6) costs.

Respondents did not delineate any request for relief in their Statement of Answer.

**OTHER ISSUES CONSIDERED AND DECIDED**

On or about February 21, 2002, Claimant informed NASD that the parties had reached a settlement of the claims asserted in this matter.

On May 9, 2002, Claimant filed a Motion to Enforce Settlement and for Disciplinary Referral. Respondents did not file a response.

On or about June 6, 2002, Respondents' counsel, David Baugh ("Baugh"), filed a Motion to Withdraw as counsel for Respondents.

On June 17, 2002, the Panel issued an order stating that Baugh is ordered to outline for the panel, in writing, the terms of the settlement agreement which prompted the cancellation of the final hearings in this matter, and that after the panel received this information, it would be in a position to act on the heretofore mentioned Motions.

On July 20, 2002, Baugh filed a response to the panel's June 17, 2002 order outlining the terms of the settlement agreement. On or about July 2, 2002, Claimant filed a reply agreeing with Baugh's response, and demanding that the panel enforce the settlement agreement against Respondents, requiring them to pay the remainder of their joint settlement obligation, as well as referring the matter for disciplinary action to NASD Regulation. On or about July 9, 2002, the panel issued an order granting Baugh's Motion to Withdraw and Claimant's Motion to Enforce Settlement Agreement and for Disciplinary Referral.

On August 7, 2002, Claimant submitted a letter asking the panel to acknowledge that its July 9, 2002 order was a final order so that NASD may convert the order into a final award. On August 15, 2002, Respondents submitted a letter to NASD stating that they would file a response on or before August 30, 2002. No further response was filed.

On or about September 10, 2002, the panel issued an order granting the request for a final award.

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 Motion to Enforce Settlement and for Disciplinary Referral, and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents are jointly and severally liable and shall pay to Claimant \$25,000.00, which represents the remainder of the \$45,000.00 settlement entered into by the parties in this matter.
- 2) All other relief requested and not expressly granted is denied.

**FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

**Filing Fees**

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

Initial claim filing fee	= \$ 300.00
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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. Werbel-Roth Securities, Inc. is a party to this dispute and was an NASD member at the time the following fees were assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 2,500.00
Total Member Fees	= \$ 4,600.00

**Adjournment Fees**

No adjournment fees are assessed.

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

Injunctive relief fees were not assessed in this matter.

**Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

One (1) Pre-hearing conference with the Panel @ \$1,125.00	= \$ 1,125.00
<u>Pre-hearing conference      October 24, 2001      1 session</u>	
Total Forum Fees	= \$ 1,125.00

The Panel assessed one-half of the total forum fees of \$ 562.50 to Claimant.

The Panel assessed one-half of the total forum fees of \$ 562.50 to Respondents, jointly and severally.

**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 other requests.

There were no administrative costs incurred during these proceedings.

**Fee Summary**

Claimant is solely liable for the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 562.50
Total Fees	= \$ 862.50
<u>Less payments</u>	= \$ 862.50
Balance Due NASD	= \$ 0.00

Respondent WRS is solely liable for the following fees and costs:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
<u>Less payments</u>	= \$ 3,600.00
Balance Due NASD	= \$ 1,000.00

Respondents are liable for the following fees and costs, jointly and severally:

Forum Fees	= \$ 562.50
Total Fees	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD	= \$ 562.50

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

**ARBITRATION PANEL**

<i>Leslie L. Cooney, Esq.</i>	-	<i>Public Presiding Chair</i>
<i>J. Porter McClean</i>	-	<i>Public Arbitrator</i>
<i>Cary L. Weissman</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
/s/  
Leslie L. Cooney, Esq.  
Chair, Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
/s/  
J. Porter McClean  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
/s/  
Cary L. Weissman  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

October 24, 2002  
Date of Service (For NASD office use only)

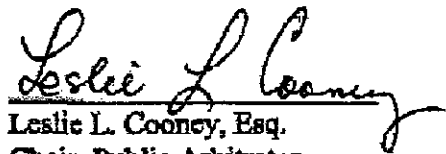
NASD

Arbitration No. 01-02328

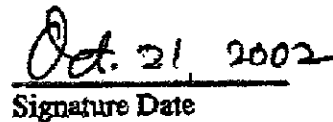
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Leslie L. Cooney, Esq.  
Chair, Public Arbitrator



Signature Date

J. Porter McClean  
Public Arbitrator

Signature Date

Cary L. Weissman  
Non-Public Arbitrator

Signature Date

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NASD  
Arbitration No. 01-02328  
Award Page 5 of 5

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J. Porter McClean	-	Public Arbitrator
Cary L. Weissman	-	Non-Public Arbitrator

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Chair, Public Arbitrator

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Signature Date

\_\_\_\_\_  
J. Porter McClean  
Public Arbitrator

10/19/02  
\_\_\_\_\_  
Signature Date

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Cary L. Weissman  
Non-Public Arbitrator

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J. Porter McClean	-	Public Arbitrator
Cary L. Weissman	-	Non-Public Arbitrator

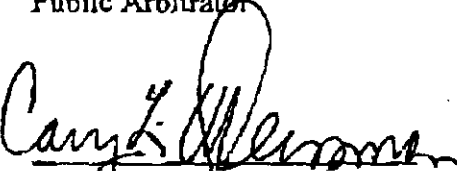
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Chair, Public Arbitrator

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