

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

**COPY**

**In the Matter of the Arbitration Between:**

Jack Nelson, as trustee of the Jack Nelson IRA, Cathy Nelson, as trustee of the Cathy Nelson IRA, Cathy Nelson as trustee of the Jack Nelson 99 Charitable Remainder Trust, Jack Nelson and Cathy Nelson, as trustees of the Nelson Family Trust, Claimants v. Self Trading Securities, Inc., John B. Pearson, Eric P. Weschke, and John L. McArdle, Respondents

Case Number: 02-05635

Hearing Site: Las Vegas, Nevada

**REPRESENTATION OF PARTIES**

**For Claimants:**

Russell L. Forkey, Esq.  
Law Office of Russell L. Forkey  
Fort Lauderdale, Florida

**For Respondent Self Trading Securities, Inc.:**

John B. Pearson  
Self Trading Securities, Inc.  
Austin, Texas

**For Respondent John B. Pearson:**

John B. Pearson  
In Pro Se  
Bertram, Texas

**For Respondent Eric P. Weschke:**

Steven N. Fuller, Esq.  
Nixon Peabody LLP  
Boston, Massachusetts

**For Respondent John L. McArdle:**

John L. McArdle  
In Pro Se  
Austin, Texas

**CASE INFORMATION**

Statement of Claim filed: September 19, 2002

Amended Statement of Claim filed: May 2, 2002

Claimants' Joint Uniform Submission Agreement signed: September 10, 2002

Statement of Answer filed by Respondent John B. Pearson: January 9, 2003

Amended Statement of Answer to Amended Statement of Claim filed by Respondent John B. Pearson: May 19, 2003

Statement of Answer filed by Respondent Eric P. Weschke: December 20, 2002

Respondent Eric P. Weschke's Uniform Submission Agreement signed: November 30, 2002

#### CASE SUMMARY

In the Initial and Amended Statement of Claim, Claimants alleged fraud, deceit, negligence, breach of fiduciary duty, breach of contract, misrepresentation, unsuitability, failure to supervise, and churning involving the purchase and/or sale of various securities.

Respondent Self Trading Securities, Inc. did not file a Statement of Answer to the Initial or Amended Statements of Claim.

Respondents John B. Pearson and Eric P. Weschke denied the allegations of wrongdoing set forth in the Claimants' Initial and Amended Statements of Claim.

Respondent John L. McArdle did not file a Statement of Answer to the Initial or Amended Statements of Claim.

#### RELIEF REQUESTED

In the Initial and Amended Statement of Claim, Claimants requested compensatory damages in the amount of \$450,000.00, punitive damages in the amount of \$50,000.00, interest, attorney's fees, and arbitration costs.

Respondent John B. Pearson requested dismissal of the Initial and Amended Statements of Claim in their entirety.

Respondent Eric P. Weschke requested dismissal of the Initial and Amended Statements of Claim in their entirety and that all forum fees be assessed against Claimants.

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

On January 22, 2002, pursuant to NASD Memorandum dated September 3, 2002, Claimants requested the hearing take place in Las Vegas, Nevada.

On June 13, 2003, the Panel clarified that Claimants' Motion to Amend the Statement of Claim was granted and John L. McArdle was a named Respondent as of May 2003.

At the hearing, Claimants settled with Respondent Eric P. Weschke.

Upon review of the file and the representations made on behalf of the Claimants, the undersigned Panel determined that Respondents Self Trading Securities, Inc. and John L. McArdle were properly served with the Initial and Amended Statements of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondents Self Trading Securities, Inc. and John L. McArdle did not file with NASD Dispute Resolution properly executed submission agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

Respondent John B. Pearson did not file with NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

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) Respondent John L. McArdle is liable to and shall pay Claimants Jack Nelson, as trustee of the Jack Nelson IRA, Cathy Nelson, as trustee of the Cathy Nelson IRA, Cathy Nelson as trustee of the Jack Nelson 99 Charitable Remainder Trust, Jack Nelson and Cathy Nelson, as trustees of the Nelson Family Trust \$175,000.00 in compensatory damages.
- 2) Respondent John B. Pearson is dismissed with prejudice.
- 3) Respondent Self Trading Securities, Inc. is dismissed without prejudice.

- 4) The parties shall bear their respective costs, including attorney's fees.
- 5) 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	= \$ 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. Accordingly, the terminated member firm Self Trading Securities, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
<b>Total Member Fees</b>	<b>= \$ 1,700.00</b>

#### 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:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing conferences:	
April 22, 2003	1 session
June 30, 2003	1 session

Three (3) Hearing sessions @ \$1,125.00/session	= \$ 3,375.00
Hearings:	
August 6, 2003	2 sessions
August 7, 2003	1 session

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<b>Total Forum Fees</b>	<b>= \$ 5,625.00</b>
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1. The Panel assessed \$2,812.50 of the forum fees jointly and severally to Claimants Jack Nelson, as trustee of the Jack Nelson IRA, Cathy Nelson, as trustee of the Cathy Nelson IRA, Cathy Nelson as trustee of the Jack Nelson 99 Charitable Remainder Trust, Jack Nelson and Cathy Nelson, as trustees of the Nelson Family Trust.
2. The Panel assessed \$2,812.50 of the forum fees to Respondent Eric P. Weschke.

**Fee Summary**

1. Claimants Jack Nelson, as trustee of the Jack Nelson IRA, Cathy Nelson, as trustee of the Cathy Nelson IRA, Cathy Nelson as trustee of the Jack Nelson 99 Charitable Remainder Trust, Jack Nelson and Cathy Nelson, as trustees of the Nelson Family Trust are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$(1,425.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,687.50</b>

2. Respondent Self Trading Securities, Inc. is charged with the following fees and costs:

Member Fees	= \$ 1,700.00
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,700.00</b>

3. Respondent Eric P. Weschke is charged with the following fees and costs:

Forum Fees	= \$ 2,812.50
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,812.50</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

Steven K. Lum, Esq.	-	Public Arbitrator, Presiding Chair
Bernard Gross	-	Public Arbitrator
Gary L. Freeman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
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Steven K. Lum, Esq.  
Chair, Public Arbitrator

8/14/03

Signature Date

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Bernard Gross  
Public Arbitrator

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

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Gary L. Freeman  
Non-Public Arbitrator

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Signature Date

8/18/03

Date of Service

**ARBITRATION PANEL**

Steven K. Lum, Esq.	-	Public Arbitrator, Presiding Chair
Bernard Gross	-	Public Arbitrator
Gary L. Freeman	-	Non-Public Arbitrator

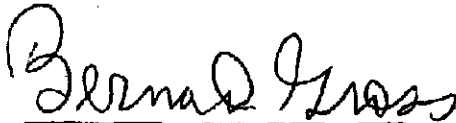
**Concurring Arbitrators' Signatures**

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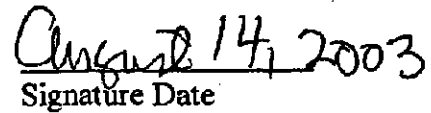
Steven K. Lum, Esq.  
Chair, Public Arbitrator

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Signature Date



Bernard Gross  
Public Arbitrator



August 14, 2003  
Signature Date

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Gary L. Freeman  
Non-Public Arbitrator

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Signature Date

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8/18/03  
Date of Service

**ARBITRATION PANEL**

Steven K. Lum, Esq.	-	Public Arbitrator, Presiding Chair
Bernard Gross	-	Public Arbitrator
Gary L. Freeman	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Steven K. Lum, Esq.  
Chair, Public Arbitrator

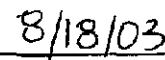
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Gary L. Freeman  
Non-Public Arbitrator

  
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