

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

James Gentile

and

Case Number: 03-06269  
Hearing Site: Chicago, Illinois

Names of Respondents

Lehman Brothers, Inc.,  
James P. Meyer, and  
SG Cowen Securities Corporation

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**NATURE OF DISPUTE**

Customer v. Member Firms and Associated Person

**REPRESENTATION OF PARTIES**

James Gentile ("**Claimant**") was represented by Paul J. Sussman, Esq., Chicago, Illinois.

Lehman Brothers, Inc. ("**Lehman Brothers**") and James P. Meyer ("**Meyer**") were represented by Christopher M. Burky, Esq., Neal, Gerber & Eisenberg, LLP, Chicago, Illinois.

SG Cowen Securities Corporation ("**SG Cowen**") was represented by Lloyd S. Clareman, Esq., New York, New York.

**CASE INFORMATION**

The Statement of Claim was filed on or about August 29, 2003. The Submission Agreement of Claimant, James Gentile, was signed on or about August 28, 2003.

A Statement of Answer was filed by Respondent, Lehman Brothers, Inc., on or about January 15, 2004. A Statement of Answer was filed by Respondent, James P. Meyer, on or about December 22, 2003. The Submission Agreement of Respondent, James P. Meyer, was signed on or about December 22, 2003.

Statement of Answer was filed by Respondent, SG Cowen Securities Corporation, on or about December 22, 2003. The Submission Agreement of Respondent, SG Cowen Securities Corporation, was signed on or about December 22, 2003.

### **CASE SUMMARY**

Claimant asserted the following causes of action: misrepresentations, omissions, breach of fiduciary duty, negligence, and failure to supervise. The causes of action related to the recommendation and purchase of various unspecified securities.

Unless specifically admitted in their Answers, Respondents, Lehman Brothers, James P. Meyer and SC Cowen, denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$1,857,969.00
Punitive/Exemplary Damages	\$1,000,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. In addition, Respondent, James P. Meyer, requested that all reference to this claim be expunged from his CRD record.

### **OTHER ISSUES CONSIDERED & DECIDED**

Respondent, Lehman Brothers, Inc., did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

On or about May 11, 2005, Claimant settled his claims against Respondent SG Cowen.

On or about September 1, 2005, Claimant dismissed his claims against Respondent Meyer with prejudice.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimant's claims, each and all are dismissed with prejudice pursuant to the parties' settlement agreement;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent, James P. Meyer's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, James P. Meyer, must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 500.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firms are Lehman Brothers, Inc. and SG Cowen Securities Corporation.

Member surcharge = \$ 2,800.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 5,000.00

### **Adjournment Fees**

Adjournments granted during these proceedings:

May 18-19, 2005, adjournment requested by Lehman Brothers, Inc. = \$ 1,200.00  
(fee waived by the Panel)

### **Forum Fees and Assessments**

The Arbitration Panel 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:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00  
Pre-hearing conference: May 11, 2005 1 session

One (1) Pre-hearing session with Panel x \$1,200.00 = \$ 1,200.00  
Pre-hearing conference: May 13, 2004 1 session

Total Forum Fees = \$ 1,650.00

The Arbitration Panel has assessed \$825.00 of the forum fees to James Gentile.

The Arbitration Panel has assessed \$825.00 of the forum fees jointly and severally to Lehman Brothers, Inc., James P. Meyer and SG Cowen Securities Corporation.

### **Fee Summary**

Claimant, James Gentile, is liable for:

Initial Filing Fee	= \$ 500.00
Three-Day Cancellation Fee	= \$ 150.00
Retention of Hearing Deposit	= \$ 375.00
Forum Fees	= \$ 825.00
<u>Total Fees</u>	<u>= \$ 1,850.00</u>
<u>Less payments</u>	<u>= \$ 1,850.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent, Lehman Brothers, Inc., is liable for:

Member Fees	= \$ 8,550.00
Three-Day Cancellation Fee	= \$ 150.00
<u>Total Fees</u>	<u>= \$ 8,700.00</u>
<u>Less payments</u>	<u>= \$ 8,700.00</u>

Balance Due NASD Dispute Resolution = \$ 0.00

Respondent, SG Cowen Securities Corporation, is liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 5,800.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

Respondents, Lehman Brothers, Inc., James P. Meyer and SG Cowen Securities Corporation, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 825.00
<u>Total Fees</u>	= \$ 825.00
<u>Less payments</u>	= \$ 1,650.00
Balance Refunded by NASD Dispute Resolution	= \$ 825.00

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

**ARBITRATION PANEL**

Howard J. Swibel, Esq. - Public Arbitrator, Presiding Chair

Ralph M. Goren, Esq. - Public Arbitrator

Howard B. Silverman - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Howard J. Swibel, Esq.

Howard J. Swibel, Esq.

Public Arbitrator, Presiding Chair

December 27, 2005

Signature Date

/s/ Ralph M. Goren, Esq.

Ralph M. Goren, Esq.

Public Arbitrator

December 23, 2005

Signature Date

/s/ Howard B. Silverman

Howard B. Silverman

Non-Public Arbitrator

December 24, 2005

Signature Date

December 27, 2005

Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Howard J. Swibel, Esq. - Public Arbitrator, Presiding Chair  
Ralph M. Goren, Esq. - Public Arbitrator  
Howard B. Silverman - Non-Public Arbitrator

**Concurring Arbitrators:**

Howard J. Swibel  
Howard J. Swibel, Esq.  
Public Arbitrator, Presiding Chair

12/27/05  
Signature Date

Ralph M. Goren, Esq.  
Ralph M. Goren, Esq.  
Public Arbitrator

Signature Date

Howard B. Silverman  
Howard B. Silverman  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Howard J. Swibel, Esq. - Public Arbitrator, Presiding Chair  
Ralph M. Goren, Esq. - Public Arbitrator  
Howard B. Silverman - Non-Public Arbitrator

**Concurring Arbitrators:**

Howard J. Swibel, Esq.  
Public Arbitrator, Presiding Chair



Ralph M. Goren, Esq.  
Public Arbitrator

Signature Date

12-23-04

Signature Date

Howard B. Silverman  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)



**ARBITRATION PANEL**

Howard J. Swibel, Esq. - Public Arbitrator, Presiding Chair  
Ralph M. Goren, Esq. - Public Arbitrator  
Howard B. Silverman - Non-Public Arbitrator

**Concurring Arbitrators:**

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Howard J. Swibel, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

\_\_\_\_\_  
Ralph M. Goren, Esq.  
Public Arbitrator

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

Howard B. Silverman  
Howard B. Silverman  
Non-Public Arbitrator

12/24/05  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD office use only)