



N.A.S.D. AWARD

Arbitration

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, New York 10004

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants:

Leon Perahia and Florence Perahia

88-01309

Name of Respondents:

Cowen & Company  
Viceroy International Securities Corp.  
Carl Caserta  
Robert J. Onesti

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REPRESENTATION

For Claimants: Lawrence Gelber, Esq. of Beigel & Sandler, Ltd. and Gary Maitland, Esq. of Kreisberg & Maitland, P.C.

For Respondent Cowen & Company ("Cowen"): Daniel Donovan, Esq., in house counsel.

For Respondents Viceroy International Securities Corp. ("Viceroy"), Carl Caserta ("Caserta") and Robert J. Onesti ("Onesti"): Simon Kogan, Esq., Sole Practitioner.

CASE INFORMATION

Claimants filed a Statement of Claim on April 14, 1988 and an Amended Claim on December 28, 1989. They filed a Statement of Reply to Respondent Cowen & Company's Counterclaim on May 1, 1989 and a Response to [Cowen's] Counterclaim on June 15, 1990. They executed a Submission Agreement on January 24, 1989.

Respondent Cowen filed an Answer, Counterclaim, Crossclaims and Third Party Claims on April 13, 1989. Cowen filed a Reply to Claimants' Amended Claim on April 17, 1990. It executed a Submission Agreement on April 28, 1989.

Respondents Viceroy, Onesti and Caserta filed a Statement of Answer on May 16, 1990 and an Amended Statement of Answer on May 16, 1990. Respondent Viceroy executed a Submission Agreement on May 14, 1990. Respondent Onesti executed a Submission Agreement on May 14, 1990. Respondent Caserta executed

a Submission Agreement on May 14, 1990.

#### HEARING INFORMATION

Hearing Dates/Sessions:      June 19, 1991 - two (2) sessions  
                                 September 11, 1991 - two (2) sessions  
                                 September 12, 1991 - two (2) sessions  
                                 October 1, 1991 - two (2) sessions  
                                 October 2, 1991 - two (2) sessions  
                                 October 3, 1991 - two (2) sessions  
                                 October 4, 1991 - two (2) sessions

TOTAL:      fourteen (14) sessions

Hearing Location: New York, New York.

#### CASE SUMMARY

Claimants alleged that in August of 1986 they entered into an Account Agreement and Margin Agreement with Respondent Cowen, who was the clearing firm for Respondent Viceroy. They then purchased 10,000 shares of Step Saver Data Systems ("Step Saver I") stock through Respondent Viceroy, whose president was Respondent Onesti. In April of 1987, Respondent Caserta, an account executive with Viceroy, solicited Claimants to purchase 5,000 additional shares of Step Saver ("Step Saver II"), which they did. Claimants then instructed Respondents Viceroy and Cowen to sell all the shares of El De Elctr Opt Bev ("El De") stock in order to cover the purchase of the additional shares of Step Saver stock. However, Respondents Viceroy and Cowen sold the stock in a piecemeal fashion.

Claimants further alleged that on April 23, 1987, Respondents Viceroy and Cowen purchased 10,000 additional shares of Step Saver stock ("Step Saver III") without Claimant's authorization. Claimants asserted that in connection with the purchase and sale of Step Saver II and III, Respondents misrepresented material facts and failed to timely execute the El De sale, resulting in a loss to Claimants.

Respondent Cowen maintained that it had a clearing arrangement with Respondent Viceroy and executed the various Step Saver transactions on the basis of information it received from Respondent Viceroy. It denied that it ever made misrepresentations to Claimant. It asserted a counterclaim against Claimants for the debit balance in Claimants' margin account and asserted indemnification claims against Respondents Caserta, Onesti and Viceroy should it be found liable.

Respondents Viceroy, Caserta and Onesti denied the allegations made

against them and alleged that the trades in question were both authorized and ratified by the Claimants.

RELIEF REQUESTED

Claimants requested actual damages of \$76,000.00 interest of \$40,000.00 and attorney's fees and costs of \$60,551.87. Claimants also requested dismissal of Respondent Cowen's counterclaim.

Respondent Cowen requested that Claimant's claim against it be dismissed in its entirety and that it be awarded on its counterclaim the sum of \$33,579.70 plus interest. Cowen also cross claimed against its Co-Respondents for any liability that might be imposed upon it.

Respondents Viceroy, Caserta and Onesti requested that all claims be dismissed and that they be awarded attorney's fees and costs.

AWARD

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

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Prior to the final hearing session, and on October 3, 1991, Claimants and Respondent Cowen entered into a settlement agreement. Claimants withdrew with prejudice their claims against Respondent Cowen. Respondent Cowen withdrew with prejudice its counterclaim against Claimants and the cross claims against its Co-Respondents. Respondent Cowen then withdrew from the proceedings.
2. The Claimants are awarded the sum of \$82,609.00 inclusive of interest against Respondent Viceroy, Respondent Caserta and Respondent Onesti jointly and severally;
3. Simple interest shall accrue on the above stated sum at the annual rate of 9% from the date of this award to the date of payment.
4. The parties shall each bear their own costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43 of the Code of Arbitration Procedure, Forum Fees of \$10,500.00 are assessed. This amount was computed as follows:

14 sessions X \$750/session = \$10,500.00

The parties are to bear this amount as follows:

Claimants - \$1350.00\*

\*( \$2100.00 - \$750.00 hearing session deposit paid on  
their claim = \$1350.00)

Respondent Viceroy - \$2100.00

Respondent Cowen - \$1500.00\*

\*( \$2100.00 - \$600.00 hearing session deposit  
paid on its counterclaim = \$1500.00)

Respondent Caserta - \$2100.00

Respondent Onesti - \$2100.00

Fees are payable to the National Association of Securities Dealers, Inc.

The Claimants shall pay to the NASD the sum of \$200.00 as a nonrefundable claim filing fee, which is outstanding. The NASD will also retain the \$500.00 non refundable claim filing fee which Respondent Cowen previously paid on its counterclaim.

Concurring Arbitrator's Signature:

Alexander Stewart Barnes  
Alexander Stewart Barnes  
Industry Arbitrator

DATED: November 18th, 1991

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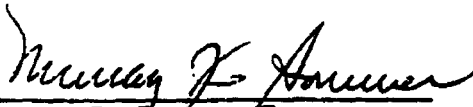
Respondent Caserta - \$2100.00

Respondent Onesti - \$2100.00

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Concurring Arbitrator's Signature:

  
Murray I. Sommer, Esq.  
Public Arbitrator/Chairperson

DATED: November 18th, 1991

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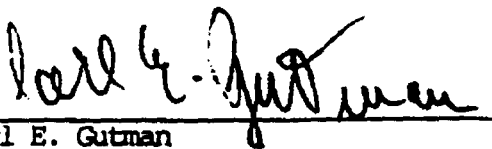
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Concurring Arbitrator's Signature:



Carl E. Gutman  
Public Arbitrator

DATED: November 18th, 1991