

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

: In the Matter of the Arbitration Between	:	
:	:	
: Harry Leva	:	
:	:	
: vs.	:	CASE #88-02928
:	:	AWARD
:	:	
: Timothy H. Dowd	:	
: Christopher D. Bell	:	
: David W. Appel, Jr.	:	
: Equitable Securities of New York, Inc.	:	
:	:	
:	:	
: Respondents	:	
:	:	

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 21, 1988 Claimant Harry Leva alleged Respondents breached their fiduciary duties owed him by recommending securities unsuitable for Claimant's investment objectives; by recommending securities without any reasonable basis for such recommendations; by purchasing securities on margin without having first secured Claimant's written consent; by exercising discretionary authority over Claimant's account without having received Claimant's written consent and by failing to establish and/or maintain a system of adequate supervision and control. Respondent Equitable Securities of New York, Inc. maintained the Claimant's account activity was not excessive in nature and that margin activity is a very common tool used to increase leverage in a customer account and further maintained the Claimant was willing as well as capable of assuming the risks associated with high risk/high reward securities. Respondent David W. Appel, Jr. maintained there are no legal grounds to permit the piercing of the corporate veil of Respondent Equitable Securities of New York, Inc. and hold its corporate principal liable for alleged acts against the Claimant. Respondent Christopher D. Bell maintained that every trade made by him in the Claimant's account was known and fully disclosed to him prior to the actual transaction and that all risks associated with the transactions were fully disclosed to the Claimant.

RELIEF REQUESTED

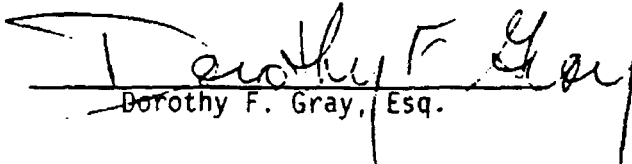
Claimant requested damages of \$36,151.58 together with interest, costs and disbursements. Respondent Equitable Securities of New York, Inc. requested dismissal of claim against it or in the alternative summary judgement against the Claimant and for Respondent Equitable Securities of New York, Inc. Respondent David W. Appel, Jr. requested dismissal of claim against him or in the alternative summary judgement against the Claimant and for the Respondent David W. Appel, Jr. Respondent Christopher D. Bell requested dismissal of claim against him.

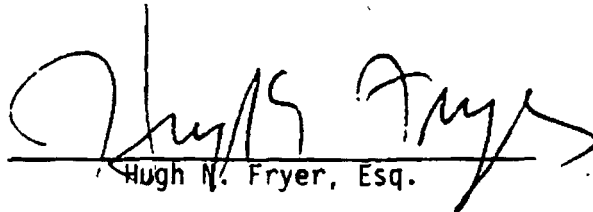
AWARD

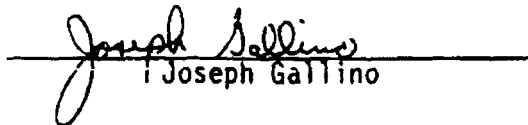
On March 13, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Harry Leva on August 30, 1988 and by Respondent Christopher D. Bell on March 15, 1989 and by Respondent David W. Appel, Jr. on November 16, 1989 and by Respondent Equitable Securities of New York, Inc. on December 13, 1989 and not signed by Respondent Timothy H. Dowd as required pursuant to Section 8 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure. The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in New York City, NY and consisted of two (2) hearing sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. In accordance with Section 25 of the Code of Arbitration Procedure, the Respondent Timothy H. Dowd was served with the Statement of Claim and given an opportunity to respond which he failed to do.
2. In accordance with Section 21 and Section 26 of the Code of Arbitration Procedure, the Respondent Timothy H. Dowd was given due notice of the hearing procedure by regular and certified mail and failed to appear at the hearing.
3. In accordance with Section 29 of the Code of Arbitration Procedure, the arbitration panel determined in light of the foregoing information to proceed with the hearing as scheduled.
4. The Respondents Equitable Securities of New York, Inc. and Timothy H. Dowd be and hereby are liable jointly and severally and shall pay to the Claimant Harry Leva the sum of Twenty Two Thousand Dollars and No Cents (\$22,000.00), inclusive of interest.
5. The parties shall each bear their respective costs including attorney's fees.
6. Pursuant to Section 43 of the Code of Arbitration Procedures, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant. In addition, the Respondents Equitable Securities of New York, Inc. and Timothy H. Dowd be and hereby are liable jointly and severally and shall pay to the National Association of Securities Dealers, Inc. the sum of \$400.00 to represent forum fees.

CONCURRING ARBITRATORS


Dorothy F. Gray, Esq.


Hugh N. Fryer, Esq.


Joseph Gallino

DATED: MARCH 13, 1990