

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

:	In the Matter of the Arbitration Between	:	
:		:	
:	Thomas J. Gentile	:	
:		:	
:	vs.	:	Claimant
:		:	
:		:	CASE #89-00626
:		:	AWARD
:		:	
:	Cowen & Company	:	
:	Ernest Mishne	:	
:		:	
:		:	Respondents
:		:	
:		:	
:		:	

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 28, 1989 the Claimant Thomas J. Gentile alleged the Respondents violated suitability requirements by encouraging the Claimant to open a margin account and purchase securities on margin exposing the Claimant to a substantial risk of loss and ongoing interest charges. The Claimant further alleged the Respondents misrepresented to the Claimant that these investments were suitable, would rise in value and be sold at a profit within several months and subsequently that the Respondent Ernest Mishne would restore the Claimant's prior losses and get him out of the investments in six months. Claimant further alleged the Respondents failed to follow orders and instructions and failed to adequately supervise the account. Respondents Cowen & Company and Ernest Mishne maintained the Claimant Thomas J. Gentile indicated that his investment objective was appreciation with risk and that the Claimant agreed to open a margin account and trade on margin. The Respondents further maintained in light of Claimant's background and investment objectives, the Respondents had no basis on which to believe the purchases of the securities in his account were inappropriate and the fact that they declined in price after purchase is no basis on which to find the investments were unsuitable.

RELIEF REQUESTED

Claimant requested damages of \$83,784.00 plus all other costs, expenses, reasonable attorneys' fees and other relief which the arbitrators deem appropriate. Respondents requested dismissal of claim and an award of their costs of the arbitration, including but not limited to attorneys' fees.

AWARD

On April 25, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Richard Thomas J. Gentile on February 27, 1989 and by Respondent Cowen & Company on June 26, 1989 and by Respondent Ernest Mishne on June 30, 1989. The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in Cleveland, OH 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. The Respondents Cowen & Co. and Ernest Mishne be and hereby are liable jointly and severally and shall pay to the Claimant Thomas J. Gentile the sum of Sixteen Thousand Three Hundred Dollars and No Cents (\$16,300.00).
2. In addition, the Respondents be and are hereby liable jointly and severally and shall pay to the National Association of Security Dealers, Inc. the sum of \$500.00 to represent forum fees.
3. In addition, the Respondents be and are hereby liable jointly and severally and shall pay to the Claimant the sum of \$500.00 to offset the filing fee paid by the Claimant.
4. The parties shall each bear their respective costs, including attorney's fees.
5. Pursuant to Section 43 of the Code of Arbitration Procedures, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimant.

CONCURRING ARBITRATORS

/s/ _____

Lawrence R. Barker

/s/ _____

Mary J. Duda

/s/ _____

David A. Rodriguez

DATED: May 10, 1990