



Arbitration

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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

In the Matter of the Arbitration Between

Name of Claimant

Edward Modzelewski

vs.

Name of Respondents

First Jersey Securities, Inc.
Sherwood Securities Corp.
Sherwood Group Inc.
Sherwood Capital
J.T. Moran and Co., Inc.
J.T. Moran Financial Corp.
William Mecca
Gregory Hasho
Robert Skoff
John E. Dell
Ajit Hutheesing
Charles J. Sheils
Richard Marino
Dennis Marino
Murray Seitman
John T. Moran
William E. Wehner
Sidney Towle
Gary M. Lederman
Peter Bulgar
Marc Stolz
Phil Falcone
John Boldis
Ray Minacucci
Thomas Tiernan
Frederic Rittreiser

Case #

89-02476

Consolidated with

89-02477 & 89-02478

REPRESENTATION

For Claimant: Walter D'Ull, Esq. from October 05, 1990 to the conclusion of the case.

Joel Bernstein, Esq. of Kantor Bernstein & Kantor from the inception to October 05, 1990.

For Respondents:

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First Jersey Securities, Inc., Robert Brennan and John E. Dell - Joseph La Sala, Esq. of Robinson, Wayne & La Sala, as to claims arising out of John E. Dell's employment at First Jersey Securities, Inc.

Sherwood Group, Inc., Sherwood Securities Corp., Sherwood Capital, Inc., John E. Dell, Ajit Hutheesing, Charles J. Sheils, Richard Marino, Dennis Marino, Murray Seitman, William Mecca, Gregory Hasho, Robert Skoff, Phil Falcone, John Boldis, Ray Minacucci and Tom Tiernan by Ann McCormick, Esq. of Crummy, Del Deo, Dolan, Griffinger & Vecchione, P.C. as to claims arising out of Respondents' employment with the Sherwood Respondents.

J. T. Moran & Co., Inc., J. T. Moran & Co., Inc., John T. Moran, William E. Wehner, Sidney Towle, Gary M. Lederman, Peter Bulger, Marc Stolz, William Mecca, Gregory Hasho, Robert Skoff, Philip Falcone, John Boldis, Ray Minacucci and Thomas Tiernan - Martin Karlinsky, Esq. of Scheffler, Karlinsky & Stein as to claims arising out of Respondents' employment with J.T. Moran.

William Mecca, Gregory Hasho, Robert Skoff, Phil Falcone, John Boldis, Ray Minacucci, Tom Tiernan - Stephen Caruso, Esq. of Caruso & Caruso as to claims arising out of Respondents' employment with J.T. Moran.

Frederic Rittersaiser - Harvey M. Spear, Esq. and Robert Knuts, Esq. of Cadwalader Wickersham & Taft.

Peter Bulger - Pro se.

CASE INFORMATION

Statement of Claim filed: July 24, 1989.

Claimant signed Submission Agreement on: July 24, 1989.

Respondents

First Jersey Securities, Inc. and Robert Brennan Joint Statement of Answer filed on: October 11, 1989.

First Jersey Securities, Inc. signed Submission Agreement on: October 02, 1989.

Robert Brennan signed Submission Agreement on: October 03, 1989.

Sherwood Group, Inc. Statement of Answer filed on: November 20, 1989.

Respondent signed Submission Agreement on: November 21, 1989.

Sherwood Securities Corp. Statement of Answer filed on: November 20, 1989.

Respondent signed Submission Agreement on: November 21, 1989.

Sherwood Capital, Inc. Statement of Answer filed on: November 20, 1989.

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Respondent signed Submission Agreement on: November 21, 1989.

J.T. Moran Financial Corp., J.T. Moran & Co., Inc., John T. Moran, William E. Wehner, Sidney Towle, Gary M. Lederman, Peter Bulger, Marc Stolz, William Mecca, Gregory Hasho, Robert Skoff, Philip Falcone, John Boldis, Ray Minacucci and Thomas Tiernan filed Joint Statement of Answer filed on: November 20, 1989.

John T. Moran did not file a Submission Agreement.
William Wehner signed Submission Agreement on: November 21, 1989.
Sidney Towle did not file a Submission Agreement.
Gary Lederman did not file a Submission Agreement.
William Mecca signed Submission Agreement on: January 08, 1990.
Gregory Hasho signed Submission Agreement on: January 08, 1990.
Bob Skoff signed Submission Agreement on: January 08, 1990.
Phil Falcone signed Submission Agreement on: January 08, 1990.
John Boldis signed Submission Agreement on: January 08, 1990.
Ray Minacucci signed Submission Agreement on: January 08, 1990.
Tom Tiernan signed Submission Agreement on: January 08, 1990.

John E. Dell Statement of Answer filed on: December 18, 1989.
Respondent signed Submission Agreement on: November 28, 1989.

Ajit G. Hutheesing Statement of Answer filed on: November 20, 1989.
Respondent signed Submission Agreement on: November 16, 1989.

Charles J. Sheils Statement of Answer filed on: November 20, 1989.
Respondent signed Submission Agreement on: November 15, 1989.

Frederic Rittereiser Statement of Answer filed on: December 18, 1989.
Respondent did not sign a Submission Agreement.

Richard Marino Statement of Answer filed on: November 20, 1989.
Respondent signed Submission Agreement on: November 21, 1989.

Dennis V. Marino Statement of Answer filed on: November 20, 1989.
Respondent signed Submission Agreement on: November 21, 1989.

Murray Seitman Statement of Answer filed on: November 20, 1989.
Respondent signed Submission Agreement on: November 15, 1989.

William Mecca Amended Statement of Answer filed on: November 20, 1989.

Gregory Hasho Amended Statement of Answer filed on: November 20, 1989.

Robert Skoff, Phil Falcone, John Boldis, Ray Minacucci and Tom Tiernan filed Joint Amended Statement of Answer filed on: November 20, 1989.

Peter Bulger Statement of Answer filed on: November 20, 1989.

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Peter Bulger Amended Statement of Answer filed on: June 11, 1990.
Respondent did not execute a Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference Dates and Sessions:

May 05, 1990 - One Session
June 14, 1990 - Two Sessions
July 02, 1990 - One Session.

Hearing Dates and Sessions:

July 16, 1990 - Two Sessions
July 17, 1990 - Two Sessions
July 18, 1990 - Two Sessions
July 23, 1990 - Two Sessions
July 25, 1990 - Two Sessions
October 05, 1990 - One Session
October 29, 1990 - Two Sessions
November 02, 1990 - Two Sessions
November 07, 1990 - Two Sessions
November 09, 1990 - Two Sessions
January 03, 1991 - One Session
January 22, 1991 - Two Sessions
February 06, 1991 - Two Sessions
February 11, 1991 - Two Sessions
March 06, 1991 - Two Sessions
March 20, 1991 - Two Sessions
April 03, 1991 - Two Sessions
April 24, 1991 - Two Sessions
May 06, 1991 - Two Sessions
May 14, 1991 - Two Sessions
June 21, 1991 - Two Sessions
July 03, 1991 - One Session
July 11, 1991 - One Session
July 22, 1991 - One Session
August 01, 1991 - One Session.

Hearing Location: New York, New York.

CASE SUMMARY

Claimant, Edward Modzelewski, alleges that the Respondents engaged in a massive and widespread conspiracy to fraudulently induce Claimant to invest approximately \$1,000,000.00 in low quality, as well as highly risky

securities in which the Respondent firms acted as market makers. Claimant further alleges that the following securities were traded: Odyssey Filmpart, International American Home, Imatron, Inc., Twistee Treat, Ovabloc, Inc., Picturatel Corp., Sherwood Group, Empire-Orr, Inc., Benihana National Corp., Electromedics, Inc. and Poseidon Pools America. Claimant also alleges that Respondents, through high pressure sales and fraudulent techniques, unauthorized trades of International American Homes and Med-Mobile, churning, crossing orders between customers' accounts and illegal manipulation of stock prices, caused Claimant's losses in his securities accounts to reach in excess of \$662,000.00. Claimant contends that the trades made were not in keeping with Claimant's stated investment objectives and that Respondents failed to monitor his accounts and failed to advise him of the inherent risk in the nature of the trading activity. Claimant alleges that the arbitration was instituted pursuant to the Federal Arbitration Act, 9 U.S.C. Sec. 1, et. seq., for violations of Section 10b of the Securities Exchange Act of 1934, and its Implementing Rule, 10b-5. In addition, Claimants alleges violation of other Statutes Regulations governing the conduct of brokers-dealers; Stock Exchange Rules; Common Law Fraud; Breach of Fiduciary Duty and Negligence.

Respondents, Sherwood Securities Corp., Sherwood Capital, Inc. and The Sherwood Group, Inc., deny liability, deny the allegations and contend that Sherwood Securities and Sherwood Capital are wholly-owned subsidiaries of Sherwood Group. Respondents each assert seventeen affirmative defenses. Sherwood Capital alleges that on or about January 30, 1987, it purchased certain assets of First Jersey Securities, Inc. and in connection with that purchase, Claimant's accounts were transferred to Sherwood Capital. Said Respondent further alleges that on or about May 20, 1988, it sold the lease and assets of its Huntington office to J.T. Moran.

Respondents, John Dell, Ajit G. Huthessing, Charles Shells Richard Marino, Dennis Marino and Murray Saitman, filed for the time period that they were at the various Sherwood companies. They deny knowledge and deny the allegations. They contend that as officers of the companies they had no direct involvement in the day to day retail brokerage activities of Sherwood Capital and cannot be held liable for any transactions in Claimant's accounts. Said Respondents each assert seventeen affirmative defenses.

Respondents, John T. Moran, William Wehner, Sidney Towle, Gary M. Lederman, Peter Bulger and Marc Stolz, deny the allegations and deny liability based upon the fact that they were officers of J.T. Moran.

Respondent, William Mecca, denies liability and asserts affirmative defenses. He also denies the allegations of misrepresentation and unauthorized trades with respect to Sherwood underwritten stocks and Med-Mobile, Inc. Mecca contends that Claimant was an experienced investor who made an informed decision with respect to each transaction in his accounts. Mecca further contends that Claimant was provided with prospecti on the new issues he purchased and that all transactions in Claimant's accounts were executed at prices and commissions which were in compliance with the current

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regulatory requirements.

Respondent, Gregory Hasho, denies the allegations and denies liability. He contends that he was the branch manager whose responsibility was to supervise Mecca.

Respondents, Robert Skoff, Phil Falcone, John Boldis, Ray Minacucci, Tom Tiernan deny all allegations, deny the and liability and contend that they did not supervise Mecca.

Respondent, Frederic Rittreiser, denies knowledge of the allegations and denies liability. He contends that he was President of Sherwood Capital and Chief Operating Officer of Sherwood Group and had no direct involvement in the day-to-day retail brokerage activities of Sherwood Capital and had no supervisory role either. Said Respondent also asserted seventeen affirmative defenses.

RELIEF REQUESTED

Claimant requests that the Panel award him \$610,000.00 in compensatory damages, punitive damages, interest and attorney's fees.

Respondents request that all claims be dismissed in their entirety.

OTHER ISSUES

On June 14, 1990, after pre-hearing conferences were conducted, the claims asserted against First Jersey Securities, Inc. and Respondents, Robert Brennan and John E. Dell, while they were employed at said firm were withdrawn based upon the fact that there had been a class action in which Claimant was certified as a member of the class.

On May 1, 1990, the parties reported that Respondents, J.T. Moran Financial Corp.. and J.T. Moran & Co., Inc. filed for bankruptcy protection. Therefore, all claims asserted against them were stayed.

On July 25, 1990, Claimant advised the Panel that he wished to discontinue with prejudice, his case against Peter Bulger and Phil Falcone for the Sherwood and J.T. Moran time periods.

After the commencement of the hearing, it was disclosed that Respondent, William Mecca, filed a bankruptcy petition in the Eastern District of New York on October 17, 1990. Respondent Mecca, through his attorney, advised the panel that the bankruptcy Judge issued an Order lifting the stay on Mecca.

On October 05, 1990, Joel Bernstein, Esq. advised the Panel that after

discussing the matter with Claimant, he wished to withdraw as counsel and to allow the substitution of Walter D'Ull, Esq. as counsel. The Panel, over Respondents' objection granted Claimant's request for additional time to prepare for the hearing.

On January 03, 1991, Claimant advised the Panel that he settled his claims against John T. Moran, William E. Wahner, Sidney Towle, Gary M. Lederman and Marc Stolz. Claimant also advised the Panel that he withdrew, with prejudice, his claims asserted against Respondents, Skoff, Falcone, Boldis, Minacucci and Tiernan. Claimant also stated that the claims against Mecca and Hasho were withdrawn with prejudice only for the time period within which they were employed by J.T. Moran, Inc.

At the close of Claimant's case, Respondents made a Motion to Dismiss the claims against Dennis Marino, Richard Marino, Murray Seitman, Charles Sheils, Ajit Hutheesing, John Dell, Sherwood Securities Corp., Sherwood Group, Inc., and various other claims of the Claimant including the RICO claim, punitive damages, Chapter 22A NY General Business Law, Sec. 15 of the Securities Act, Section 10b claim, common law fraud claim, violation of RICO Act, breach of fiduciary duty claim and the claim for negligence. Respondent Rittereiser made a similar motion. The Panel granted the Motions to Dismiss with respect to the following Respondents: Dennis Marino, Richard Marino, Murray Seitman, Charles Sheils and Ajit Hutheesing and denied all Motions as to the remaining Respondents. The Panel granted Motions to Dismiss the following claims: RICO claim, Chapter 22A NY General Business Law, Sec 15 of Securities Act, violation of the RICO Act and denied all other Motions to Dismiss the various claims.

At the end of the twelfth hearing session, the Panel made an interim assessment of forum fees which were to be borne equally by all parties.

At the conclusion of the case, the Panel granted Respondent Rittereiser's Motion to Dismiss.

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 arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Sherwood Capital, Inc., Sherwood Group, William Mecca and Gregory Hasho, are hereby jointly and severally liable to the Claimant and shall pay him Four Hundred and Eighteen Thousand Dollars and Zero Cent

(\$418,000.00);

2. The claims against Sherwood Securities and John Dell are denied in their entirety;

3. No interest is awarded on the above sum;

4. The claim for punitive damages was withdrawn;

5. The claim for attorney's fees is denied;

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1. The NASD has received and shall retain the \$1,000.00 filing fee previously deposited by the Claimant and this shall be applied to any amount assessed against the Claimant;

2. The NASD has received and shall retain \$480.00 interim forum fees from the Claimant and said fee shall be applied to any amount assessed against the Claimant;

3. The NASD has received \$521.74 each in interim forum fees from Sherwood Group, Inc., Sherwood Securities Corp., Sherwood Capital, Inc., William Mecca, Gregory Hasho, Bob Skoff, Phil Falcone, John Boldis Ray Minacucci, Tom Tiernan, John E. Dell, Ajit Hutheesing, Charles J. Sheils, Frederic Rittereiser, Richard Marino, Dennis Marino and Murray Seitman and shall retain said fees which amounts to \$8,869.58 and apply the payment to any amount assessed in this award.

4. Respondents, John T. Moran, William Wehner, Sidney Towle, Gary Lederman and Marc Stolz, although assessed \$521.74 each in interim forum, did not remit said fees.

5. Forum fees in the amount of \$43,200.00 for forty-two (42) hearing sessions at \$1,000.00 per session and four (4) pre-hearing conferences at \$300.00 per session (\$1,000.00 X by 42 hearing sessions + \$300.00 X 4 = \$43,200.00) have been assessed and partially paid as stated in paragraphs 7 and 8. (The parties have not been assessed for the July 22, 1991, session);

6. Claimant is assessed a non-refundable filing fee of \$250.00;

7. Claimant is further assessed \$10,800.00 in forum fees. Claimant has paid \$1,480.00; Therefore, Claimant owes a balance of \$9,570.00;

8. Respondents, Sherwood Group, Inc. Sherwood Securities Corp., Page 9

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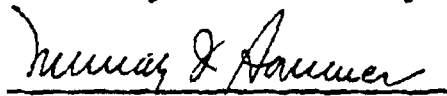
Sperwood Capital, Inc., William Macca, Gregory Hasho, Bob Skoff, Phil Falcone, John Boldis, Ray Minacucci, Tom Tiernan, John E. Dell, Ajit Hutheesing, Charles J. Sheils, Frederic Rittereiser, Richard Marino, Dennis Marino, Murray Seitman, John T. Moran, William Wehner, Sidney Towle, Gary Lederman, Marc Stolz, are each assessed \$1,472.00 in forum fees. All Respondents, except John T. Moran, William Wehner, Sidney Towle, Gary Lederman and Marc Stolz, shall receive a \$521.74 credit towards the \$1,472.72 assessment. Therefore, the balance due by all Respondents except the five listed shall remit to the NASD \$950.98;

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

ARBITRATION PANEL

Murray I. Sommer, Esq.	-	Chairperson/Public
Joseph S. Mascia	-	Public
Joel M. Leifer	-	Industry

Concurring Arbitrator's Signature


Murray I. Sommer, Esq.

Date of Decision:

Dated by the NASD: October 18, 1991

STATE OF NEW YORK
COUNTY OF NEW YORK

s.s.i

On this of October, 1991, before me personally appeared Murray I. Sommer, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



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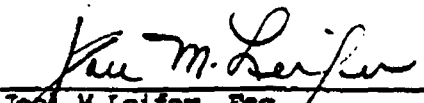
Sherwood Capital, Inc., William Macca, Gregory Masho, Bob Skoff, Phil Falcone, John Boldis, Ray Minacucci, Tom Tiernan, John E. Dell, Ajit Hutheesing, Charles J. Shells, Frederic Rittreiser, Richard Marino, Dennis Marino, Murray Seitzman, John T. Moran, William Wehner, Sidney Towle, Gary Lederman, Marc Stolz, are each assessed \$1,472.00 in forum fees. All Respondents, except John T. Moran, William Wehner, Sidney Towle, Gary Lederman and Marc Stolz, shall receive a \$521.74 credit towards the \$1,472.72 assessment. Therefore, the balance due by all Respondents except the five listed shall remit to the NASD \$950.98;

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

ARBITRATION PANEL

Murray I. Sommer, Esq.	-	Chairperson/Public
Joseph S. Mascia	-	Public
Joel M. Laifer	-	Industry

Concurring Arbitrator's Signature


Joel M. Laifer, Esq.

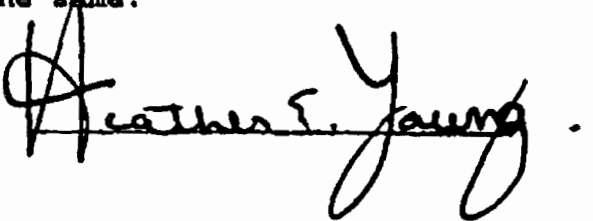
Date of Decision:

Dated by the NASD: October 18, 1991

STATE OF NEW YORK
COUNTY OF NEW YORK

S.S.:

On this ^{16th} of October, 1991, before me personally appeared Joel M. Leifer, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

A handwritten signature in cursive script, reading "Heather E. Young", written over a horizontal line.

HEATHER E. YOUNG
Notary Public, State of New York
No. 60-4882774
Qualified in Westchester County
Certificate Filed With N.Y. Ct. Cl.
Commission Expires Jan. 12, 1993

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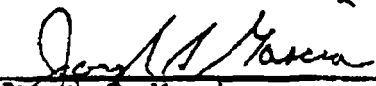
Sherwood Capital, Inc., William Macca, Gregory Hasho, Bob Skoff, Phil Falcone, John Boldis, Ray Minacucci, Tom Tiernan, John E. Dell, Ajit Hutheesing, Charles J. Shells, Frederic Ritterser, Richard Marino, Dennis Marino, Murray Seitman, John T. Moran, William Wahner, Sidney Towle, Gary Lederman, Marc Stolz, are each assessed \$1,472.00 in forum fees. All Respondents, except John T. Moran, William Wahner, Sidney Towle, Gary Lederman and Marc Stolz, shall receive a \$521.74 credit towards the \$1,472.72 assessment. Therefore, the balance due by all Respondents except the five listed shall remit to the NASD \$950.98;

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

ARBITRATION PANEL

Murray I. Sommer, Esq.	-	Chairperson/Public
Joseph S. Mascia	-	Public
Joel M. Leifer	-	Industry

Concurring Arbitrator's Signature



Joseph S. Mascia

Date of Decision:

Dated by the NASD: October 18, 1991

STATE OF NEW YORK
COUNTY OF NEW YORK

s.s.:

On this 16th of October, 1991, before me personally appeared Joseph S. Mascia known and known to me to be the individual described in and who executed the forgoing instrument and he duly acknowledged to me that he executed the same.

Marie Calabrese

MARIE CALABRESE
Notary Public, State of New York
No. 03-5570696
Qualified in Bronx County
Commission Expires March 30, 1992