



N.A.S.D. AWARD

Arbitration

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

George & Irene Surbian

vs.

Case #
91-03096

Name of Respondents

Ernst & Company
Cenpac Securities, Inc.

REPRESENTATION

For Claimants, George & Irene Surabian ("Claimants"), Louis N. Massery, Esq. from the law firm of Cooley Manion Moore & Jones.

For Respondent, Ernst & Company ("Ernst"), Michael H. DuBoff, Esq. from the law firm of Salom Marrow & Dykman.

For Respondent, Cenpac Securities, Inc. ("Cenpac"), Gerald N. Bovee from the firm of Cenpac Securities, Inc.

Bailey Martin & Appel's ("BMA") representative was John Stoffere.

Charles Marwell ("Marwell") represented himself.

CASE INFORMATION

Statement of Claim was filed on October 3, 1991.

Claimant's Submission Agreement was signed on September 30, 1991.

Ernst's Statement of Answer was filed on November 22, 1991.

Ernst's Submission Agreement was signed on November 18, 1991.

Cenpac did not file a Statement of Answer or execute a Submission Agreement.

BMA did not file a Statement of Answer or execute a Submission Agreement.

Marwell did not file a Statement of Answer or execute a Submission Agreement.

HEARING INFORMATION

Hearing Dates/Hearing Sessions:	September 10, 1992	-	Two sessions
	September 11, 1992	-	Two sessions.

9211056

Page 2
91-03096.Award

Hearing Location: National Association of Securities Dealers, Inc.'s offices located at 260 Franklin Street, Boston, Massachusetts.

CASE SUMMARY

Claimant, George Surabian, states that he is 83 year old retiree who is hard of hearing and who ran a corner variety store for over forty years. Claimant states that prior to opening the account with EMA, his entire life savings of nearly \$200,000.00 was invested in money market funds and blue chip stocks. Claimant alleges that he purchased \$190,000.00 of American Capital Securities Fund through Marwell and EMA and that the account was opened at Ernst. Claimants maintain that a margin account was also opened at Ernst without their consent and that unsuitable purchases on margin of various equities including penny stocks and bonds were made. Claimants allege that the use of the margin account to finance the purchases were deceptive and fraudulent. Claimants also allege that their account was churned and that by May, 1991, the margin debit was \$95,609.40 and that the value of their account was \$17,000.00. Claimant also allege that unauthorized transfers were made from their account and that Respondents made misstatements and omissions in connection with the purchases. Claimants further allege that Respondents placed them in both limited partnerships and real estate investment trusts which were also unsuitable for them in light of their age.

Claimants state that in 1991 Cempac purchased their account and when they demanded a return of their \$190,000.00, they received the value of the account minus the margin debit.

Ernst denies the allegation of wrongdoing set forth in the Statement of Claim. Ernst contends that it was the clearing broker for EMA, the introducing broker, from April 14, 1987 through March 25, 1991 and that all purchases for the Claimants' account were made through EMA. Ernst contends that it did not receive any complaints from about the trading in their account. Ernst asserts three defenses including the fact that it conducted itself in accordance all exchange and securities rules.

RELIEF REQUESTED

Claimant requests an award of \$200,000.00 plus punitive damages and attorney's fees.

Ernst requests that the claim be dismissed in all respects.

OTHER ISSUES CONSIDERED AND DECIDED

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

9211056

Page 3
91-03096.Award

while the originals remain on file with the NASD.

Prior to the commencement of the hearing, Claimants advised the NASD that they had settled their claims against EMA and Charles Maxwell.

Cempac did not appear at the commencement of the hearing. Based upon the documents submitted at the hearing by the NASD staff regarding hearing notices sent to the parties and pursuant to Sections 25 and 29 of the Code of Arbitration Procedure, the panel proceeded with the hearing. The NASD staff made several telephone calls to Mr. Bovee who later made himself available by telephone for the afternoon session of September 10, 1992 hearing.

AWARD

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. Cempac is hereby liable to the Claimants and shall pay them SIX HUNDRED AND THIRTY TWO DOLLARS AND EIGHTY THREE CENTS (\$632.83);
2. Ernst is hereby liable to the Claimants and shall pay them TWENTY FIVE THOUSAND DOLLARS AND NO CENTS (\$25,000.00);
3. No interest is awarded on the above sum;
4. The claim for punitive damages is denied;
5. The claim for attorney's fees is denied;
6. Each party shall pay its own costs.

FORUM FEES

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

\$200.00 - non-refundable filing fee
\$3,000.00 - 4 hearing sessions at \$750.00 per session

1. Claimants, Ernst and Cempac are each assessed \$1,000.00;
2. Claimants are further assessed the \$200.00 non-refundable filing fee. Claimant deposited \$950.00 with the NASD which shall be credited to the fees assessed against them.

9211056

Page 4
91-03096.Award

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

Concurring Arbitrator's Signature

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David Plimpton, Esq.
Public Panelist

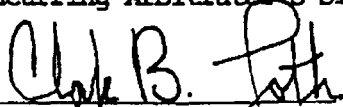
Date of Decision: November 13, 1992

9211056

Page 4
91-03096.Award

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

Concurring Arbitrator's Signature

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Clark B. Loth
Industry Panelist

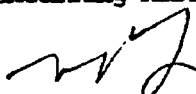
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9211056

Page 4
91-03096.Award

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Concurring Arbitrator's Signature



Mark J. Levinson, Esq.
Chairperson/Public

Date of Decision: November 13, 1992