

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Owen Cowitt

93-01865

Name of Respondents

J. Gregory & Company, Inc.
William F. Kern, Jr.

REPRESENTATION

For Claimant Owen Cowitt ("Cowitt"): Steven B. Getzoff, Esq. of the law firm of Lester, Schwab, Katz & Dwyer.

For Respondents J. Gregory & Company, Inc. and William F. Kern, Jr. ("Respondents"): Jeffrey S. Rosen, Esq. of the law firm of DeMartino, Finkelstein, Rosen & Virga.

CASE INFORMATION

Statement of Claim filed: May 7, 1993.

Claimant's Submission Agreement signed on: May 6, 1993.

Joint Statement of Answer filed by Respondents on: July 12, 1993.

Respondents' Submission Agreements signed on: July 9, 1993.

HEARING INFORMATION

Pre-Hearing Conference:	January 10, 1994	-	One Session
Hearing Date/Sessions:	January 31, 1994	-	Two Sessions

Hearing Location: National Association of Securities Dealers, Inc. offices located in New York City, New York.

CASE SUMMARY

Claimant alleged that Respondent Kern, an account executive with J. Gregory & Company, failed to follow the claimants specific instructions and engaged in unauthorized trading in two accounts maintained by the claimant.

Claimant further alleged that the respondents engaged in conduct which operated as a scheme to defraud the claimant, in violation of Section 10(b)-5 of the Securities and Exchange Act of 1934 and Rule 10(b)(5), as well as the rules and regulations of the NASD, including but not limited to the rules prohibiting unauthorized trading of a customer's account.

Claimant also alleged that Respondent J. Gregory and Company failed to supervise Respondent Kern in violation of the Rules of the NASD and NYSE and is therefore liable to the Claimant for the losses sustained by the Claimant under the theory of respondeat superior.

Further, Claimant alleged that respondents were liable for the losses sustained by claimant under Section 352 of the General Business Law of the State of New York, and under theories of breach of fiduciary duty, negligence and common law fraud.

Respondents denied all allegations asserted by the Claimant and requested that the claim be dismissed for Claimant's failure to state a claim upon which relief could be granted.

Respondents maintained that all transactions which occurred in the Claimant's accounts were made with the authorization of Claimant; all such trades were suitable investments for the Claimant; and that Claimant's losses were caused by market conditions and not by any error, omission, action or scheme of the Respondents.

Respondents further maintained that the Claimant continuously requested and was given information on the market price of his account positions and was sent regular trade confirmations and account summaries.

RELIEF REQUESTED

Claimant requested an award in the amount of \$37,357.95, plus interest, commissions earned, costs and attorneys' fees. Claimant also requested unspecified damages for loss of investment earning potential and punitive damages.

Respondents requested that the Statement of Claim be dismissed and that they be awarded reasonable attorneys' fees.

OTHER ISSUES CONSIDERED & 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 while the originals remain on file with the NASD.

AWARD

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. All claims against Respondents J. Gregory & Company and William Kern Jr. be and hereby are dismissed in all respects.
2. All claims by the Claimant against the Respondents for punitive damages be and hereby are dismissed in all respects.
3. Each party shall bear their respective costs including attorneys' fees.

FORUM FEES

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

1 Pre-Hearing session	X \$300 = \$300
2 Hearing sessions	X \$400 = \$800 minus hearing session deposit of 400 = net \$400 due.

TOTAL FEES = \$700.00

1. Claimant Owen Cowitt is assessed \$300.00.
2. Respondents, J. Gregory & Company and William Kern, Jr, are assessed \$400.00, jointly and severally.

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

93-1264

Concurring Arbitrators' Signatures -
Name

Marilyn Salzman

Marilyn Salzman, Esq.
Public Arbitrator

Date of Decision: March 3, 1994

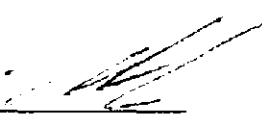
Executed on:

Date of Decision:

2/16/94

93-1464

Concurring Arbitrators' Signatures-
Name



Simon S. Kogan, Esq.
Chairman- Public Arbitrator

Date of Decision: March 3, 1994

Executed on:

~~Date of Decision:~~ 2/18/94

93-1815

STATE OF NEW YORK
COUNTY OF NEW YORK

On this 8 day of February, 1994, before me personally appeared SEMON TOGA
known to me to be the individual described in and who executed the
foregoing instrument and duly acknowledged to me that he/~~she~~ executed the same.

Cathy Ann Kenny

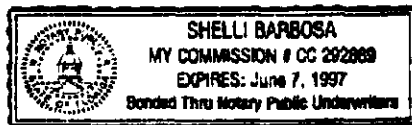
CATHY ANN KENNY
Notary Public, State of New York
No. 41-4760933
Cert., Filed in New York County
Commission Expires October 31, 1994

93-1865

FLORIDA
STATE OF NEW YORK
COUNTY OF NEW YORK
(BRIDGEMAN)

On this 11th day of February, 1994, before me personally appeared MARTIN
ALLEN, known to me to be the individual described in and who executed the
foregoing instrument and duly acknowledged to me that he/she executed the same.

Shelli Barbosa



93-1865

Concurring Arbitrators' Signatures

Name

Gertrude K. Schwartz

Gertrude K. Schwartz

Industry Arbitrator

Date of Decision: March 3, 1994

93-1865

STATE OF NEW YORK
COUNTY OF ~~NEW YORK~~ *KINGS*

On this *17* day of February, 1994, before me personally appeared *ERTHA DE A*
SCHWARTZ, known to me to be the individual described in and who executed the
foregoing instrument and duly acknowledged to me that ~~he~~/she executed the same.

Selma L. Traubner

SELMA L. TRAUBNER
Notary Public, State of New York
No. 24-9372320
Qualified in Kings County
Commission Expires ~~March 1994~~ *1994*
DEC 31