

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

George Jordan

CASE NUMBER

93-02021

Name of Respondent(s)

Cowles, Sabol & Company, Inc.  
Dino Romano  
Gregory E. Ricca  
Foremost Services Inc.  
Mike Cava

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REPRESENTATION

For Claimant, George Jordan ("Claimant"), Dan A. Druz, Esq., Sea Girt, New Jersey.

For Respondent, Cowles, Sabol and Company, Inc., ("Cowles"), Patrick Baldwin, Esq., Menlo Park, California.

Respondent, Gregory E. Ricca ("Ricca"), Staten Island, New York, appeared pro se.

There were no appearances by or on behalf of Respondents, Dino Romano ("Romano"), Foremost Services Inc. ("FSI") and Mike Cava ("Cava").  
(See "Other Issues Considered and Decided").

CASE INFORMATION

Statement of Claim filed on May 19, 1993.

Claimant's Submission Agreement was signed on January 8, 1993.

Statement of Answer filed by Respondent Cowles on August 3, 1993.

Respondent Cowles' Submission Agreement signed on July 27, 1993.

Statement of Answer filed by Respondent Ricca on January 24, 1994.  
Respondent Ricca's Submission Agreement signed on January 21, 1994.

### **HEARING INFORMATION**

Pre-Hearing Conference:           April 11, 1995  
  May 19, 1995

Hearing Dates/Sessions:       June 7, 1995 / Two Sessions  
  June 8, 1995 / Two Sessions

Hearing Location:   NASD, Inc., 33 Whitehall Street, 8th Floor, New York,  
N.Y. 10004.

### **CASE SUMMARY**

Claimant seeks to recover damages he alleges he suffered as a result of fraudulent, deceitful and negligent sales practices perpetuated by the Respondents. In his Statement of Claim he alleges that he opened an account in January, 1992 at Cenpac Securities Corp. which later changed its name to Mutual Securities, Inc. and is a division of the Respondent Cowles, Sabol and Company, Inc. Claimant alleges that Respondent Cava, a registered representative of Cowles recommended that he invest \$40,000.00 in the Respondent Corporation, FSI. Claimant alleges that the Respondents did not disclose the fact that there is no public market for FSI shares, that the transferability of the shares are limited and that Respondents, Romano and Ricca are both employees and principals of FSI. Claimant further alleges that neither the risks inherent in illiquid investments nor the conflicts of interests as to Respondents Romano and Ricca's dual roles were ever disclosed.

Claimant further alleges that the Respondents made unsuitable recommendations in other speculative investments such as Arimathaea Resources Inc., Chemex Pharmaceuticals and Playtime Toys Inc. Claimant alleges that the false representations were made for the purpose of generating commissions.

Finally, Claimant maintains that Cowles failed to adequately monitor Respondents Cava, Ricca and Romano.

Respondent Cowles alleges that Claimant transferred his account from Cenpac Securities Corporation a separate broker-dealer unrelated to Cowles which subsequently withdrew its registration as a broker-dealer and ceased operations to the Respondent firm in February, 1992. Respondent Cowles contends there

was never a connection or merger between Cowles and Cenpac.

Cowles maintains that Claimant's account contained only speculative, non-diversified securities upon its transfer from Cenpac. Said Respondent further contends that the Claimant's account activity, prior to the transfer, reveals a practice of purchasing large positions of concentrated holdings in low-priced, common stocks which were held for short periods of time and which resulted in the losses alleged by the Claimant to have been the responsibility of Cowles. Respondent maintains that all transactions completed by Cowles for the Claimant were clearly marked "unsolicited".

Respondent Ricca contends that he had minimal contact with the Claimant that included an in-person meeting and a few phone calls answering Claimant's questions relating to stock quotes. Respondent Ricca alleges that the only transaction Respondent executed for Claimant was an unsolicited sell of Playtime Toys. Respondent denies that he was a stockholder, principal or employee of FSI.

#### **RELIEF REQUESTED**

Claimant requests actual damages of \$75,000.00, costs, expenses and disbursements, including reasonable attorneys' fees and punitive damages in the amount of \$50,000.00.

Respondents request that all claims be dismissed in their entirety.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

The NASD was unable to effect service on Respondents Romano, FSI and Cava. Accordingly, Claimant decided not to pursue this matter against these Respondents but only against Respondents Cowles and Ricca.

#### **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. At the close of the Claimant's case Respondent Cowles submitted a motion to dismiss; Claimant submitted opposition papers. After hearing argument, the panel granted the motion and dismissed the case against Respondents Cowles and Ricca.

2. The claims for punitive damages, attorneys' fees and costs are denied.

**FORUM FEES**

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

Non-refundable filing fee:	\$ 200.00
Pre-Hearing Conference fees:	\$ 600.00 (2 conferences at \$300.00 per conference)
Hearing Session fees:	\$3,000.00 (4 sessions x \$750.00 per session)
Total fees:	\$3,800.00
Claimant paid a total of:	\$ 950.00
Claimant owes a total fee of:	\$2,850.00

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

**ARBITRATION PANEL**

George R. Freund - Public Chairperson  
Henry H. Balter - Public Panelist  
Linda G. Gay, Esq. - Industry Panelist

**Concurring Arbitrator's Signature**



George R. Freund

NASD Date of Decision: August 30, 1995

**AFFIRMATION**

I, **GEORGE R. FREUND**, do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules, that this is my decision in the above-captioned matter.



2. The claims for punitive damages, attorneys' fees and costs are denied.

**FORUM FEES**

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**ARBITRATION PANEL**

George R. Freund - Public Chairperson  
Henry H. Balter - Public Panelist  
Linda G. Gay, Esq. - Industry Panelist

**Concurring Arbitrator's Signature**

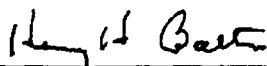
  
Henry H. Balter

8/26/95  
Date of Decision:

NASD Date of Decision: August 30, 1995

**AFFIRMATION**

I, **HENRY H. BALTER**, do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules, that this is my decision in the above-captioned matter.

  
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2. The claims for punitive damages, attorneys' fees and costs are denied.

**FORUM FEES**

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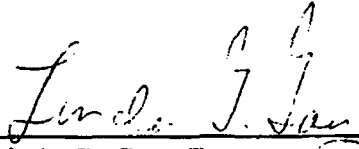
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**ARBITRATION PANEL**

George R. Freund - Public Chairperson  
Henry H. Balter - Public Panelist  
Linda G. Gay, Esq. - Industry Panelist

**Concurring Arbitrator's Signature**

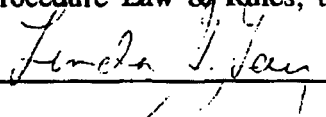
  
Linda G. Gay, Esq.

Date of Decision: 8/25/95

NASD Date of Decision: August 30, 1995

**AFFIRMATION**

I, LINDA G. GAY, ESQ., do hereby affirm pursuant to Article 7507 of the Civil Procedure Law & Rules, that this is my decision in the above-captioned matter.

  
Linda G. Gay