

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Robert C. Blair

93-04118

Name of Respondent(s)

Cowen & Company  
Ralph P. Hamberg

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**REPRESENTATION**

Claimant, Robert C. Blair, ("Claimant") appeared pro se.

Respondent, Cowen & company ("Cowen"), was represented by Peter Byer, Esq., In-house Counsel.

Respondent, Ralph P. Hamberg ("Hamberg"), was represented by Peter Byer, Esq. In-house Counsel.

**CASE INFORMATION**

Statement of Claim was filed on October 7,

Claimant's Submission Agreement signed on September 29, 1993.

Statement of Answer filed jointly by Respondents on February 14, 1994.

Respondent Cowen's Submission Agreement was signed on February 14, 1994.

Respondent Hamberg's Submission Agreement was signed on February 25, 1994.

**HEARING INFORMATION**

Hearing Date/Sessions: November 16, 1994 - 1 Session

Hearing Location: Columbus Bar Association, 175 South 3rd Street, Columbus Ohio.

### **CASE SUMMARY**

Claimant alleged that Respondent Hamberg "sold and subsequently rebought the same stock in a short period of time". Claimant stated that Respondent never contacted Claimant during a period of three and a half years and the only communication between them was initiated by Claimant, each May, to inquire about the poor performance of his investment. Additionally, claimant stated that when he inquired of Respondent's Counsel how to stop transactions in his account, he was advised that he was required to sign a release. In general, Claimant alleged his account was handled improperly by the Respondents.

Respondent defended by stating that Claimant understood he was making riskier investments in order to see greater returns. Respondent also pointed out that Claimant gave Respondent Hamberg discretionary control over the account. Respondent hamberg maintains that he followed his normal practice of investment strategy, which had proven successful in the past, combined with practices within the risk parameters authorized by Claimant. Respondents admit they never contacted Claimant about each transaction, explaining that was due to the discretionary authority granted by Claimant. In addition, Respondents state that they did not tell Claimant he had to sign a release in order to transfer or close his account. Instead, they claim he knew he could do so at any time. In sum, Respondents stated they followed the investment objectives and authorization of the Claimant.

### **RELIEF REQUESTED**

Claimant requested \$23,469.27 in compensatory damages.

Respondents requested this claim be dismissed in its entirety and that Claimant be assessed the entire cost of this proceeding.

### **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 original 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 to dismiss the claim in its entirety, however, forum fees are assessed against Respondents, jointly and severally.

### **FORUM FEES**

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

Non-refundable Filing Fee:	\$100.00
Hearing Session Deposit:	\$400.00
Total Fees:	\$500.00

Forum Fees Assessed Against:

1. Claimant paid \$500.00
2. Respondents jointly and severally owe \$500.00 to be paid directly to the Claimant.

**ARBITRATION PANEL**

Earle R. Frost, Jr., Esq. - Public Chairperson

W. Pat Conners - Industry Panelist

Henry H. Hersch, Esq. - Public Panelist

Concurring Arbitrators' Signatures  
Name

Public/Industry

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Date of Decision: \_\_\_\_\_