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**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)**

Barbara M. Carey

93-04399

**Name of Respondent(s)**

Corporate Securities Group, Inc.  
Forrest Jay Radin  
Neil Silver

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**REPRESENTATION**

For Claimant Barbara M. Carey ("Carey"): Jeffrey Tew, Esq. of Kirkpatrick & Lockhart, Miami, Florida.

For Respondents Corporate Securities Group, Inc., ("CSG") and Neil Silver ("Silver"): James M. Kaplan, Esq. and Nanci S. Landy, Esq., of Wilson, Elser, Moskowitz, Edelman & Dicker, Miami, Florida.

Respondent Forrest Jay Radin ("Radin"): pro se.

**CASE INFORMATION**

Statement of Claim filed: October 17, 1993. Claimant's Submission Agreement signed: October 12, 1993.

Statement of Answer filed by CSG and Silver: March 2, 1994. Respondent's Submission Agreements signed by Charles E. Scarlett on behalf of CSG on February 24, 1994, and by Silver on March 9, 1994.

Respondent Radin did not file an Answer or sign a Submission Agreement (See "Other Issues").

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### **HEARING INFORMATION**

On January 17, 18, and 19, 1995 in Ft. Lauderdale, Florida, hearings lasting 6 sessions were conducted.

### **CASE SUMMARY**

The Claimant alleged that she gave directions to the Respondents, through registered representatives Radin and Silver, both as to the specific securities to purchase for her account and that her investment objectives were safety of principle and to leave her school bond undisturbed; that Respondents recommended the purchase of unsuitable common stock; margined the Claimant's account without her knowledge or consent; and, engaged in churning the Claimant's account. Claimant further alleged that the Respondents breached their fiduciary duty; violated Florida and Federal securities laws; were negligent in handling her account; were negligent in supervising the handling of her account; committed fraud; and, made negligent misrepresentations of material facts

The Respondents CSG and Silver denied all allegations of wrongdoing and alleged that Claimant was an experienced businesswoman who at all times knew that her account was on margin and understood the risks associated with margin; that all investments made were suitable in light of Claimant's business experience, real estate investment experience, political experience, education and stated investment objectives. Claimant was contacted prior to every trade and was provided with all material information relating to each investment; and that the Claimant's account was not churned investment, in light of her investment objective of trading profits and the fact that Respondents discounted their commissions regularly.

### **RELIEF REQUESTED**

Claimant requested damages in the total amount of \$75,356.37: \$45,103.00 for losses on unsuitable common stock purchases; \$14,383.00 in commissions for churning; and, \$3,279.00 in margin interest, plus costs. Claimant also sought a finding that the Respondents violated Section 517 of the Florida Statutes and that the Claimant was entitled to an award of attorney's fees.

Respondents, CSG and Silver, requested that the panel dismiss Claimant's claim and award no relief.

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### **OTHER ISSUES CONSIDERED & DECIDED**

1. The Panel finds that service was never effected upon Respondent Radin and, therefore, makes no findings regarding him.
2. The Claimant did not request punitive damages in her claim but requested them in closing argument.
3. 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 hearings, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, CSG, is found liable for violation of Chapter 517, Florida Statutes, and shall pay to the Claimant the amount of \$19,091.00.
2. Respondent, Silver, is found liable for violation of Chapter 517, Florida Statutes, and shall pay to the Claimant the amount of \$1,000.00.
3. Claimant's request for punitive damages is denied.
4. The Panel finds that the Claimant, as the prevailing party, is entitled to attorney's fees as authorized by Section 517.211, Florida Statutes, and may apply for those fees to a court of competent jurisdiction.

### **OTHER COSTS**

Any cost other than those listed above or below are the responsibility of the individual parties.

### **FORUM FEES**

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$3000.00 (6 arbitration sessions x \$500.00 per session).

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2. Claimant is hereby assessed \$1500.00, for which the NASD shall retain the \$500.00 previously deposited in partial satisfaction thereof, leaving a balance due of \$1,000.00 payable to the National Association of Securities Dealers, Inc.

3. Respondent CSG is hereby assessed \$1500.00 payable to the National Association of Securities Dealers, Inc.

4. The NASD shall retain the non-refundable filing fee of \$150.00 paid by the Claimant.

Concurring Arbitrators' Signatures  
Name

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Seth L. Finkel, Esq.

Public/ Chairperson

15 /  
Richard D. Longacre

Industry/ Panelist

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Gary C. Barat, CPA

Public/ Panelist

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