

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant**

Taira Nagasawa,  
Custodian for Lucy H. Nagasawa

NASD Arbitration  
#94-01392

vs.

**Name of Respondents**

Cowen & Company  
Whale Securities Co., L.P.  
Calvin Mees  
Reynolds Kendrick Stratton, Inc.  
Robert A. Williky  
William R. Page

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**REPRESENTATION**

For Claimant: Morton Levy, Investor Advocates, Emeryville, California

For Respondents: Cowen & Co.: Peter Byer, Esq., Cowen & Co., New, York, New York  
Whale Securities: David S. Richan, Esq., Tenzer, Greenblatt, Fallon &  
Kaplan, New York, New York  
Calvin Mees represented himself  
Reynolds Kendrick Stratton:  
Scott Monson, Esq., Reynolds Kendrick  
Stratton, Beverly Hills, California  
Robert Williky represented himself.  
William Page represented himself.

**CASE INFORMATION**

Statement of Claim filed: April 11, 1994  
Amended Claim filed: December 2, 1994  
Claimant's Submission Agreements Signed: March 28, 1994 and February 15, 1995

Statement of Answer filed:  
Whale Securities: September 1, 1994

Calvin Mees:	August 26, 1994
Reynolds Kendrick Stratton:	August 29, 1994
Robert A. Williky:	April 26, 1995
William R. Page:	March 10, 1995

Respondents Submission Agreements signed:

Whale Securities:	September 1, 1994
Calvin Mees:	August 23, 1994
Reynolds Kendrick Stratton:	None submitted
Robert A. Williky:	None submitted
William R. Page:	None submitted

### HEARING INFORMATION

A pre-hearing telephone conference lasting one session was held on May 24, 1995.

The evidentiary hearing was held in San Francisco, California, as follows:

September 26, 1995	-	2 sessions
September 27, 1995	-	2 sessions

### CASE SUMMARY

Claimant alleged fraud, failure to disclose and the recommendation of unsuitable investments in mutual funds, common stocks and warrants for a custodial account.

Respondents separately denied the allegations of the claim, and asserted variously that Claimant directed the trading in the account, that Claimant was fully informed of the particulars of all investments, and that Claimant had failed to state a cause of action.

### RELIEF REQUESTED

Claimant requested damages of approximately \$16,000, plus interest, punitive damages, and costs of arbitration.

Respondents each requested dismissal of all claims.

### OTHER ISSUES CONSIDERED & DECIDED

Prior to hearing, Claimant dismissed all claims asserted against Cowen & Company. At the telephone conference call on May 24, 1995, the following motions were ruled on by the panel:

Respondent Robert Williky's motion to Dismiss was granted, and he was removed as a Respondent.

Respondent Reynolds Kendrick Stratton's Motion to Dismiss was granted, and it was removed as a Respondent.

The parties have agreed that the Award in this matter maybe executed in counterpart copies, and that they will 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 asserted against Respondent William R. Page are dismissed in their entirety.
2. Respondents Whale Securities and Calvin Mees are jointly and severally liable for and shall pay to Claimant the sum of \$8,026.00.
3. In addition Respondent Calvin Mees is individually liable for and shall pay to Claimant the sum of \$7,403.00.
4. The claim for punitive damages is denied.
5. The parties shall each bear their respective costs, including attorney's fees.

### FORUM FEE

Pursuant to Section 43 (c) of the Code of Arbitration Procedure, the NASD shall retain the \$100 non-refundable filing fee, but shall refund the \$400 hearing session deposit paid by Claimant.

Respondent Whale Securities is assessed all forum fees:

1 pre-hearing telephone conference	\$300
4 hearing sessions @ \$400/session	1600
	\$1900
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Fees are payable to the NASD, Inc.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
John B. Reilley	Public
Theodore F. Schmidt	Public
Blake Weston	Industry

Concurring Arbitrators Signatures

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John B. Reilley

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Theodore F. Schmidt

Blake Weston  
Blake Weston

Date of Decision: 10-10-95

Date Served: 10/17/95