

**AWARD**

**NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

**Name of Claimant(s)**

R.E. Lance Cleaver

Arbitration  
No. 96-01958

**Name of Respondent(s)**

A.T. Brod & Co., Inc.  
Paul Martin Moeller  
Curtis R. Papazian  
James Dale Green, Jr.  
Julia A. Mold-Torres

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**REPRESENTATION**

For Claimant: R.E. Lance Cleaver, Salinas, California

For Respondent Curtis R. Papazian: Curtis R. Papazian, Oceanside, California

For Respondent James Dale Green, Jr.: Louis E. Taubman, Esq., New York, New York

For Respondent Julia A. Mold-Torres: Julia A. Mold-Torres, Jersey City, New Jersey

For Respondent Paul Martin Moeller: No Appearance by Mr. Moeller

**CASE INFORMATION**

Statement of Claim filed: May 7, 1996

Amended Statement of Claim filed: July 8, 1997

Answer to Respondent's Counterclaim filed: November 3, 1997

Claimant's Submission Agreement signed: April 10, 1996

Respondent Paul Martin Moeller's Statement of Answer filed on or about: October 24, 1996

Respondent Curtis R. Papazian's Statement of Answer filed: March 21, 1997

Respondent James Dale Green, Jr.'s Statement of Answer filed: November 13, 1996

Respondent James Dale Green, Jr.'s Amended Statement of Answer filed: July 15, 1997

Respondent James Dale Green, Jr.'s Second Amended Statement of Answer and Counterclaim filed: September 4, 1997

Respondent Julia A. Mold-Torres' Statement of Answer filed: August 12, 1997

Respondent Julia A. Mold-Torres' Counterclaim for Costs and Sanctions filed: August 29, 1997

Respondents' Submission Agreements signed as follows:

Paul Martin Moeller: October 25, 1996

Julia A. Mold-Torres: August 12, 1997

Respondents Curtis R. Papazian and James Dale Green, Jr. did not file Submission Agreements. However, they are subject to NASD Regulation, Inc. (NASDR) jurisdiction in accordance with Section 10301 of the NASDR Code of Arbitration Procedure.

#### HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):

July 8, 1997 (one session)

July 18, 1997 (one session)

September 3, 1997 (one session)

November 3, 1997 (one session)

Hearing Date(s)/Session(s): November 24, 1997 (two sessions)

Hearing Location: San Francisco, California

#### CASE SUMMARY

Claimant's Claim alleged various acts of wrongdoing by Respondents and also alleged the following claims with respect to Claimant's desire to purchase Men's Warehouse stock: 1) unauthorized trades; 2) failure to execute and deliver stocks; 3) fraud; 4) churning; 5) negligence; 6) Respondents failed to deal fairly with Claimant; 7) Respondents breached their duty of loyalty and breached the duty to disclose; and 8) failure to supervise.

Respondent Paul Martin Moeller alleged that: 1) The broker number BQ09 which appears on all the trade tickets and customer

statements related to Lance Cleaver was not his broker number and that he never shared any accounts or had a shared broker number with Respondent Curtis R. Papazian and made no trades for Mr. Cleaver, nor could he have, because Mr. Cleaver was not his client; 2) He did not open an account for Mr. Cleaver; his signature does not appear on the account card or options agreement; the signatures are that of Mr. Cleaver, Mr. Papazian, and Jim Green; 3) He received no remuneration for any trades made for Mr. Cleaver, nor was any remuneration due to Mr. Moeller; 4) He had no ongoing relationship with Mr. Cleaver; and 5) He never physically received any correspondence from Mr. Cleaver.

Respondent Papazian denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Mr. Papazian alleged that Claimant's Claim naming Mr. Papazian in this matter is improper, reckless, an abuse of process, and involves Mr. Papazian without legitimate cause or merit.

#### **RELIEF REQUESTED**

Claimant's Claim requested damages in the amount of \$6,376.26 and also requested punitive damages.

Respondent Moeller requested that he be dismissed from this matter.

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

Presiding Arbitrator Beverly Elaine Narayan determined that proper service and notice were not effectuated with respect to Respondent A.T. Brod & Co., Inc. and dismissed A.T. Brod & Co., Inc. without prejudice.

During the evidentiary hearing, Ms. Narayan heard and considered the positions of the parties relative to Motions to Dismiss by Respondents James Dale Green, Jr. and Julia A. Mold-Torres. Ms. Narayan granted the Motions and determined that the U-4 files of Mr. Green and Ms. Mold-Torres shall be expunged of any reference to the above-captioned matter. Ms. Narayan requests that any reference to the above-captioned matter be expunged from Mr. Green's and Ms. Mold-Torres' records contained in the NASDR's Central Registration Depository.

#### **AWARD**

After considering the pleadings, the testimony, the evidence presented at the hearing and post-hearing submissions, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims by Claimant, including the claim for punitive damages, are dismissed.

2. Respondent James Dale Green, Jr.'s Counterclaim for attorney fees and costs is dismissed.

3. Respondent Julia A. Mold-Torres' Counterclaim for costs and sanctions is dismissed.

4. The parties shall each bear any other respective costs including attorney's fees.

#### FORUM FEES

Pursuant to Section 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed: NASDR shall retain the \$200.00 hearing session deposit previously deposited by the Claimant. Forum fees for two of the pre-hearing conferences shall be assessed against Claimant in the amount of \$400.00, calculated as follows: two pre-hearing sessions times \$200.00. The remaining forum fees shall be split between Claimant and Respondents Moeller and Papazian and are calculated as follows:

Two pre-hearing sessions @ \$200.00/session	=	\$400.00
Two hearing sessions @ \$200.00/session	=	\$400.00
Total fees assessed	=	\$800.00

Claimant's share (50%)	=	\$400.00
Credit for hearing deposit	=	\$200.00
Balance due	=	\$200.00

Respondents Papazian's and Moeller's share, jointly and severally (50%)	=	\$400.00
Balance due	=	\$400.00

Fees are payable to NASD Regulation, Inc.

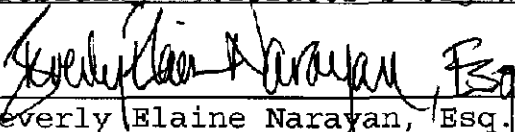
#### PRESIDING ARBITRATOR

Name ..... Public / Industry

Beverly Elaine Narayan, Esq.

Public Arbitrator

Presiding Arbitrator's Signature

  
Beverly Elaine Narayan, Esq.

Date of Decision: 1-5-98

Date Served: January 8, 1998