

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Norm Brewer

96-03968

Name of Respondents

Corporate Securities Group, Inc.
Michael Austin
Robert Burton

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on September 5, 1996, claimant Norm Brewer ("claimant") through his representative and counsel Arthur S. Leider of Investors Arbitration Specialists, Inc. located in San Diego, California, alleged that respondents Corporate Securities Group, Inc. ("CSG"), Michael Austin ("Austin"), and Robert Burton ("Burton"), intentionally and maliciously violated numerous securities regulations by selling highly speculative stocks in light of his financial status. Claimant further maintained that in May 1993, he was solicited by Burton to open an account with CSG. Claimant also maintained that he was asked various questions about his background and financial situation. Claimant asserted that he told Burton that he was unemployed, and had an estimated net worth of \$50,000 and liquid net worth of \$40,000. Claimant further asserted that Burton intentionally and fraudulently overstated his annual income, net worth and liquid net worth. Claimant also asserted that despite the fact that he was unemployed and had a small net worth, Burton solicited him to continually purchase low priced, highly speculative equities. Claimant contended that Burton continually informed him that he would double and triple his money, that he had inside information, and that if he purchased the recommended stocks, he would be rewarded by being allowed to purchase certain hot initial public offerings ("IPO").

Claimant further contended that in August 1993, Burton left CSG and Austin took over his account. Claimant also contended that Austin proceeded to continually buy and sell securities which showed a pattern of churning. Claimant alleged that Austin suggested that claimant apply for a margin account despite his lack of income and inability to sustain losses.

Respondent CSG through its representative and in-house counsel Gregory Tendrich, Esq. maintained that CSG operates through brokers who are independent business persons, affiliated with CSG as independent contractors. Respondent CSG further maintained that Burton and Austin were brokers with CSG and independent contractors. Respondent CSG also maintained that claimant provided information relating to his assets, income and investment objectives and this information was recorded on claimant's new account form. Respondent CSG contended that claimant's new account form indicated that he was a "self employed investor" with an estimated annual income between \$150,000 and \$200,000, an estimated liquid

net worth of \$500,000 and an estimated net worth of \$500,000. Respondent CSG further contended that claimant's investment objective was speculation.

Respondent CSG also contended that the new account card was updated in September 1993 upon Austin taking over the account. Respondent CSG maintained that when Austin took over the account and the new account card was updated, claimant was asked in a letter from the CEO of CSG to contact the Chief Compliance Officer in the event he had a problem with his account or if there were inaccuracies on the updated new account card. Respondent CSG further maintained that there was no dispute that the updated new account card was received by claimant. Respondent also maintained that during the fifteen months that claimant had an account with them, he authorized and approved all of the trading in his account. Respondent CSG contended that all securities sold to claimant were suitable in light of his investment objectives, income, net worth and investment experience.

Respondent Austin through his representative and counsel Glenn A. Delf of the law firm Lightmas & Delk, located in Atlanta, Georgia maintained that claimant is attempting to recover trading losses that he himself incurred and directed. Respondent Austin further maintained that when he inherited the account from Burton, he called claimant to update and confirm the information given to Burton on the original new account card. Respondent Austin also maintained that claimant informed him that he was interested in trading IPO's. Respondent Austin contended that claimant engaged in a pattern of investing in IPO's which is evidenced by his monthly statements, the order ticket and confirmation slips. Respondent Austin further contended that if the trades were profitable, claimant would let his profit run, but if they lost money, claimant would direct him to close out the position at a loss and refuse to make any additional payments. Respondent also contended that claimant knew of, approved and in fact directed the trading strategy in his account.

Respondent Burton who appeared Pro Se, maintained that claimant contacted him in early 1993 at his former employer to buy 900 shares of unsolicited First National Film Corporation. Burton further maintained at that time he asked claimant questions about his investment experience, financial net worth and employment history to determine his suitability. Burton also maintained that claimant stated that he was a retired real estate and stock market investor with extensive experience in investment matters, liquid net worth of \$500,000 and an annual income of \$250,000. Burton asserted that claimant never said or insinuated that he was employed. Burton further asserted that in May 1993 he accepted a position with CSG and at that time transferred the account with the First National Film Corporation. Burton also asserted that he questioned claimant to determine whether there were any changes in his financial status. Burton contended that claimant agreed there were no changes in his financial situation.

Burton further contended that claimant inquired about New Issues and about margin accounts. Burton maintained that he informed claimant that New Issues were speculative and after careful consideration they bought one New Issue (the California Culinary). Burton further maintained that he never allowed a client to purchase speculative issues on margin, never told any client that he would double or triple his money and never told anyone that he had insider information. Burton also maintained that he did not solicit claimant to purchase anything and that it appeared most of claimant's allegations took place after he left CSG.

RELIEF REQUESTED

Claimant Norm Brewer requested (1) \$6,700 in compensatory damages; (2) reasonable interest and costs; (3) margin interest costs.

Respondent CSG requested that the claims of claimant be dismissed in their entirety, plus \$1,000.00 in attorneys' fees, reimbursement of the member surcharge and other costs incurred in defending this frivolous action.

Respondent Austin requested that the claims of claimant be dismissed in their entirety, plus attorneys' fees and costs of defending this arbitration.

Respondent Burton requested that the panel strike the claim from his record, assess damages as it sees fit to punish claimant and his representative for the abuse of the arbitration system, and for relief from this action.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Robert Burton submitted his Statement of Answer and an apology for submission of the late answer. The arbitrator reviewed and considered the Statement of Answer of respondent Robert Burton.

AWARD

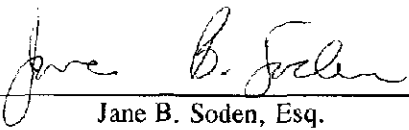
Pursuant to Rule 10302 of the NASD Code of Arbitration Procedure, a single Public Arbitrator, Jane B. Soden, Esq., was selected to review the matter in controversy between the parties set forth in submission to Arbitration signed by claimant Norm Brewer on August 2, 1996, by respondent Corporate Securities Group, Inc. on November 6, 1996, by respondent Michael Austin on October 3, 1996 and by respondent Robert Burton on February 18, 1997.

And, the Arbitrator, having considered the proof the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of claimant Norm Brewer against respondents Corporate Securities Group, Inc., Michael Austin and Robert Burton are dismissed in their entirety.
2. All other relief requests are denied.
3. The \$150.00 filing fee previously deposited with National Association of Securities Dealers Regulation, Inc. by claimant Norm Brewer shall be retained by NASD Regulation, Inc.

AFFIRMATION

I, **Jane B. Soden, Esq.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and executed this instrument, which is my oath and award.



Jane B. Soden, Esq.

Date of Decision: March 18, 1997