

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimants

Lloyd F. and Patsy Wood

96-05196

Name of Respondents

Sovereign Equity Management  
Peter V. Palmeri  
Vincent Albanese  
Jeffrey Adam Lefkowitz

REPRESENTATION

Claimants Lloyd F. and Patsy Wood ("Claimants") were represented by David B. Franzen, Esq., Feil, Pettit & Williams, Charlottesville, VA.

Respondents Sovereign Equity Management ("Sovereign"), Vincent Albanese ("Albanese") and Jeffrey Adam Lefkowitz ("Lefkowitz") were represented by Lawrence S. Leibowitz, Esq., Wexler & Burkhart, Mitchell Field, NY.

Respondent Peter V. Palmeri ("Palmeri") was represented by Daniel J. Dugan, Esq., Spector Gadon & Rosen, Philadelphia, PA.

CASE INFORMATION

The Statement of Claim was filed November 21, 1996.  
Claimants' Uniform Submission Agreement was signed December 6, 1996.

The Joint Statement of Answer of Sovereign, Albanese, Lefkowitz and Palmeri (collectively "Respondents") was filed February 10, 1997.  
Respondents did not submit executed agreements to arbitrate.

**HEARING INFORMATION**

Prehearing Date/Sessions: May 22, 1997/one session

Hearing Dates/Sessions: September 9, 1997/two sessions  
September 12, 1997/two sessions

Hearing Location: Omni Hotel  
Richmond, VA

**CASE SUMMARY**

Claimants alleged that Respondents induced Claimants to authorize transactions by use of misrepresentations, in addition to executing unauthorized transactions, causing excessive trading in a margin account and failing to follow directions of Claimants. Claimants alleged that they opened an account with Sovereign in May 1994 based on Lefkowitz's misrepresentations about the strength and reputation in the securities industry. Claimants alleged that following the purchase of Toys R Us ("Toys") stock in August 1995, they instructed Respondents on October 13, 1995 to transfer the 4,000 shares to another brokerage house account but Respondents refused in spite of the fact that at that time there were no unsatisfied margin calls. Claimants asserted that on December 12, 1995 and again on December 19, 1995 Claimants' position in Toys was liquidated to meet margin calls.

Claimants alleged that in May 1995 they were persuaded to authorize the purchase of 30,000 shares of Rotary Power International, Inc. ("RPII") based on the misrepresentations of Respondents. Claimants alleged that when RPII value began to plunge, they instructed Respondents to sell of Claimants' positions in RPII but again Respondents refused. However, Respondents liquidated the RPII positions at 2 1/8 in January 1996 to satisfy additional margin calls without the knowledge or approval of Claimants.

Claimants alleged that Sovereign failed to adequately supervise Lefkowitz, Albanese and Palmeri in the management of Claimants' account. Claimants alleged that the actions of Respondents caused losses in Claimants' account for which Respondents should be held responsible.

Respondents denied all allegations of wrong-doing as asserted in the Statement of Claim. Respondents maintained that Claimants authorized, directed and were fully aware of all transactions in their accounts, including the margin transactions therein. Respondents further alleged that all securities purchased in the accounts on margin were marginable securities. Respondents maintained that Claimants received confirmations of each transaction and monthly account statements showing all transaction. Respondents asserted that Claimants never objected to margin transactions after receipt of the confirmations, and therefore ratified all margin transactions. Respondents maintained that Toys shares were required to be maintained as collateral for other securities purchased on margin and/or the other brokerage firm would not accept the debit balance in the account with respect to such stock. Respondent Sovereign maintained that at all times, Lefkowitz, Albanese and Palmeri were appropriately supervised in the management of Claimants' accounts.

In addition, Respondents raised the affirmative defenses of a failure to state a claim upon which relief can be granted; barred by applicable statutes of limitation; estoppel; ratification; laches; contributory negligence and that Respondents acted in good faith and exercised that degree of care, diligence and skill which ordinarily prudent persons would exercise in similar circumstances within the securities industry.

9/1/00

### RELIEF REQUESTED

Claimants requested damages in the amount of \$220,270.00 with interest on \$104,000.00 at the rate of 8% per year from October 13, 1995 until paid, plus interest on \$116,270.00 from October 10, 1995 until paid, plus any multiple which may be provided for in cases of this case, plus reasonable attorneys' fees and the costs expended herein.

Respondents requested that the Statement of Claim be dismissed in its entirety and that all the costs and expenses of this arbitration be assessed to Claimants.

### OTHER ISSUES CONSIDERED & DECIDED

Respondents Sovereign, Lefkowitz, Albanese and Palmeri did not file properly executed submissions to arbitration but are required to submit pursuant to the by-laws of the NASD and Rule 10301 of the NASD Regulation Code of Arbitration Procedure ("Code").

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.

The panel had considered Respondent Palmeri's Motion to Dismiss and Claimants' Response thereto and had denied the Motion prior to the commencement of the hearing on the merits. However, at the conclusion of the testimony on September 9, 1997, upon Respondent Palmeri's renewal of the Motion to Dismiss, the panel granted the Motion and Respondent Peter Palmeri was dismissed from the action. **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. That the Statement of Claim is denied.
2. That the claim for punitive or exemplary damages is denied.
3. That each party shall bear its own costs and expenses with the exception of Forum Fees as specified below.
4. That any and all relief not specifically addressed herein is denied.

### OTHER COSTS

Pursuant to Rule 10333 of the Code Sovereign Equity is assessed a member surcharge of \$350.00.

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**FORUM FEES**

Pursuant to Rule 10332(c) of the Code, the following Forum Fees are assessed:

1 Prehearing Session x \$300.00 = \$ 300.00

4 Sessions x \$750.00 = \$3,000.00

Total Forum Fees \$3,300.00

Forum Fees are assessed to Claimants at \$1,650.00 and to Respondents Sovereign, Lefkowitz and Albanese, jointly and severally, at \$1,650.00. Claimants are to receive credit for the \$750.00 hearing session deposit previously submitted to the NASD Regulation, leaving a net assessment due from Claimants of \$900.00. Respondents have a Forum Fees assessment due of \$1,650.00.

All fees are payable to the NASD Regulation, Inc.

**DATE**

**CONCURRING ARBITRATORS' SIGNATURES**

9-23-97

  
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Marvin Elster, Presiding  
Public Arbitrator

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Richard Cocke  
Public Arbitrator

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Phillip R. Clark  
Industry Arbitrator

Date Decision Served by NASD Regulation:

October 6, 1997

7/1/00

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**DATE**

**CONCURRING ARBITRATORS' SIGNATURES**

Sept 25, 1997

Marvin Elster, Presiding  
Public Arbitrator

Richard Cocke  
Public Arbitrator

Phillip R. Clark  
Industry Arbitrator

Date Decision Served by NASD Regulation:

October 6, 1997

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Marvin Elster, Presiding  
Public Arbitrator

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Richard Cocke  
Public Arbitrator

9/25/97

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*Phillip R. Clark*  
Phillip R. Clark  
Industry Arbitrator

Date Decision Served by NASD Regulation:

October 6, 1997