

970709

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

Warren Liu

v.

Arbitration No.
96-05539

Name of Respondents

Everen Securities, Inc. and Freddie Lee

REPRESENTATION

For Claimant:

William F. Davis, Esq.
Law Office of William F. Davis
Pacific Palisades, California

For Respondents:

Kenneth F. Berg, Esq.
Law Office of Kenneth F. Berg
Chicago, Illinois

CASE INFORMATION

Statement of Claim filed:

December 12, 1996

Claimant's Submission Agreement signed:

December 9, 1996

Joint Statement of Answer filed by Respondents:

March 7, 1997

Respondent Everen Securities, Inc.'s
Submission Agreement signed:

March 3, 1997

Respondent Freddie Lee's
Submission Agreement signed:

February 26, 1997

HEARING INFORMATION

Pre-Hearing Conference Dates / Sessions:

May 28, 1997 (1 Session)
August 21, 1997 (1 Session)

Hearing Date / Sessions:

September 9, 1997 (2 Session)

Hearing Location:

Los Angeles, California

CASE SUMMARY

Claimant alleged that Respondents made an unauthorized sale of 50 March, 1996 COMEX silver contracts belonging to Claimant. Claimant further alleged that Respondents failed to follow Claimant's instructions regarding short positions in March 15, 1996 Standard & Poor's 500 Index options. Claimant alleged that although the order was not executed, Respondents falsely represented to Claimant that the transaction had been effected and the position closed. Claimant alleges that he relied on Respondents' misrepresentation to his detriment. Claimant further alleged that Respondents' actions represented a breach of contract and a breach of the fiduciary duty owed to Claimant. Claimant further alleged that the Respondents were negligent.

Respondents denied that they are liable for the losses Claimant claims. Specifically, Respondents alleged that Claimant admitted to several individuals that he authorized the silver futures contract on January 2, 1996. Respondents further alleged that Claimant is barred from bringing this claim by the doctrines of ratification, waiver, and estoppel. Respondents further alleged that Claimant's voluntary decision to reject a market order fill that offset the Standard & Poor's contracts caused Claimant's damages. Respondents further alleged that Claimant failed to mitigate his losses.

RELIEF REQUESTED

Claimant requested compensatory damages of not less than \$92,375.00. Claimant further requested attorney's fees and costs, interest at the California legal rate of ten percent, and punitive damages.

Respondents requested that Claimant's claim be denied and that Claimant be awarded no damages.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed either 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 original remains on file with the NASD Regulation, Inc., Office of Dispute Resolution.

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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 of the Claimant's claims, including the claim for punitive damages, are denied in their entirety.
2. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

One full-panel Pre-Hearing Conference Session @ \$500.00/Session	=	\$500.00
One one-member Pre-Hearing Conference Session @ \$300.00/Session	=	\$300.00
Three Hearing Sessions @ \$500.00/Session	=	\$1,500.00
Total Fees Assessed	=	\$2,300.00

Claimant's One-Half Share	=	\$1,150.00
Claimant's Credit for Hearing Session Deposit	=	\$500.00
Claimant's Balance Due	=	\$650.00
Respondents' One-Half Share	=	\$1,150.00
Respondents' Balance Due (jointly and severally)	=	\$1,150.00

Fees are payable to NASD Regulation, Inc.

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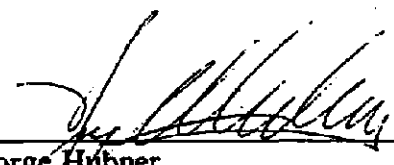
ARBITRATORS

<u>Name.....</u>	<u>Public / Industry</u>
Joseph Winter, Esq.	Public Arbitrator
George Hubner	Public Arbitrator
John B. Wells	Industry Arbitrator


Concurring Arbitrators' Signatures



Joseph Winter, Esq.



George Hubner



John B. Wells

Date of Service: 9/10/97