

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Cynthia L. Green, Claimant v. Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna), Cery B. Perle, James Clifford Page, III, Patricia Georgia French, Joseph Gaetano Gerace, Jon G. Aubry, Waldron & Co., Inc., Aubrey Perle Holdings Inc., and Centura Investments, Respondents

Case Number: 99-00455

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant Cynthia L. Green:

Edward W. Russey, III, Esq.  
Oswald & Yap  
Irvine, California

For Respondent Rupande Dhiren Shethnashrimankar  
(a/k/a Rupa Shethna):

Rupande Dhiren  
Shethnashrimankar  
(a/k/a Rupa Shethna)  
In Pro Per  
Irvine, California

For Respondent Patricia Georgia French:

Gregg A. Johnson, Esq.  
Law Office of  
Gregg A. Johnson  
San Diego, California

For Respondent Jon G. Aubry:

Did Not Appear

For Respondent Cery B. Perle:

Did Not Appear

For Respondent Joseph Gaetano Gerace:

Did Not Appear

For Respondent Waldron & Co., Inc.:

Did Not Appear

For Respondent Aubrey Perle Holdings Inc.:

Did Not Appear

For Respondent Centura Investments:

Did Not Appear

### **CASE INFORMATION**

Statement of Claim (captioned "First Amended Statement of Claim") filed: March 3, 1999

Claimant's Uniform Submission Agreement signed: February 10, 1999

Statement of Answer filed by Respondent Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna): July 2, 1999

Respondent Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna)'s Uniform Submission Agreement signed: July 9, 1999

Statement of Answer filed by Respondent James Clifford Page, III: June 8, 1999

Respondent James Clifford Page, III's Uniform Submission Agreement signed: July 8, 1999

Statement of Answer filed by Respondent Patricia Georgia French: July 27, 1999

### **CASE SUMMARY**

Claimant Cynthia L. Green alleged breach of fiduciary duty, fraud, negligent misrepresentation, breach of contract, unauthorized trades, and excessive trading. Claimant further alleged that under the theory of control person liability, Respondents Perle, Gerace, and Aubry are liable for the action of Respondents Shethnashrimankar, French, and Page. In her amendment to the Statement of Claim, Claimant alleged that Respondents French and Page were also principals of Waldron & Co. and subject to control person liability. All allegations stem from margin activity and the purchase and/or sale of various securities including shares of Applied Cellular, Hong Kong Telecommunications, Ltd., En Pointe Tech, Lukoil Spon ADR, Intuit, Unisys Corp., Ascend Communication, Simulation Plus, Inc., Netscape Communications (stock and options), Microsoft Corporation (stock and options), Seagate Technology, and Unisys Corporation.

Respondent Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna) denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

Respondent James Clifford Page, III denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

Respondent Patricia Georgia French denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

The remaining Respondents did not file answers.

### **RELIEF REQUESTED**

Claimant Cynthia L. Green requested compensatory damages in the sum of \$36,000.00, punitive damages, costs, and attorney's fees.

Respondent Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna) requested dismissal of the Claimant's Statement of Claim in its entirety.

Respondent James Clifford Page, III requested dismissal of the Claimant's Statement of Claim in its entirety, and sought an award of costs and attorney's fees.

Respondent Patricia Georgia French requested dismissal of the Claimant's Statement of Claim in its entirety, and sought an award of costs and attorney's fees.

*The remaining Respondents did not file answers.*

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

Upon review of the file and the representations made on behalf of the Claimant, the undersigned Panel determined that Respondents Cery B. Perle, Joseph Gaetano Gerace, and Jon G. Aubry, were properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

The Panel further determined that service was not effected on Respondents Waldron & Co., Inc., Aubrey Perle Holdings Inc., and Centura Investments.

Respondent Patricia Georgia French did not file with NASD Dispute Resolution, Inc. a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On February 15, 2000, the Panel granted Claimant's Motion to Amend the Statement of Claim to include allegations of control person liability against Respondents French and Page.

On October 6, 2000, Claimant dismissed Respondent James Clifford Page, III with prejudice.

On October 9, 2000, counsel for Respondent Aubry informed that NASD that neither Respondent Aubry nor his counsel would appear at the hearing.

During the hearing, Respondent Aubry's Motion to Dismiss for Lack of Jurisdiction was denied by the Panel.

During the hearing, Claimant dismissed Respondent Patricia Georgia French with prejudice.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **AWARD**

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondents Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna), Cery B. Perle, and Joseph Gaetano Gerace are jointly and severally liable to and shall pay Claimant the sum of \$40,000.00 in compensatory damages and interest.
- 2) Respondent Cery B. Perle is liable to and shall pay Claimant the sum of \$25,000.00 in punitive damages pursuant to §3294 of the California Civil Code.
- 3) All claims against Jon G. Aubry are denied in their entirety.
- 4) Due to the lack of service, all claims against Respondents Waldron & Co., Inc., Aubrey Perle Holdings Inc., and Centura Investments are dismissed without prejudice.
- 5) Each party shall bear its own costs, including attorney's fees.
- 6) All other relief not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 120.00
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#### **Adjournment Fees**

The following adjournment fees are assessed:

June 27 through 30, 2000 hearing dates adjournment requested by Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna)	= \$ 400.00
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### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 300.00/session	= \$ 300.00
Pre-hearing conference: June 2, 2000 1 session	
(3) Pre-hearing conference sessions with the Panel @ \$400.00/session	= \$ 1,200.00
Pre-hearing conferences: December 2, 1999 1 session	
February 15, 2000 1 session	
June 9, 2000 1 session	
(8) Hearing sessions @ \$400.00/session	= \$ 3,200.00
Hearings: October 10, 2000 2 sessions	
October 11, 2000 2 sessions	
October 12, 2000 2 sessions	
October 13, 2000 2 sessions	
Total Forum Fees	= \$ 4,700.00

The Panel assessed \$ 4,700.00 of the forum fees jointly and severally to Respondents Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna), Cery B. Perle, and Joseph Gaetano Gerace.

### **Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

Claimant requested 60 photocopies @ \$.50/page: = \$ 30.00

### **Fee Summary**

1. Claimant Cynthia L. Green is charged with the following fees and costs:

Initial Filing Fee	= \$ 120.00
<u>Administrative Costs</u>	= \$ 30.00
Total Fees	= \$ 150.00
<u>Less Payments</u>	= \$ (520.00)
Balance Due Claimant	= \$ (370.00)

2. Respondent Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna) is charged with the following fees and costs:

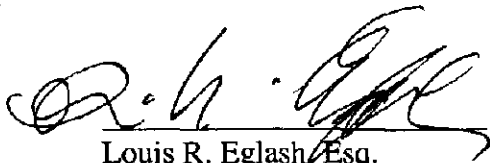
<u>Adjournment Fee</u>	= \$ 400.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 400.00

3. Respondents Rupande Dhiren Shethnashrimankar (a/k/a Rupa Shethna), Cery B. Perle, and Joseph Gaetano Gerace, are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	= \$ 4,700.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 4,700.00

All balances are payable to NASD Dispute Resolution, Inc. and are due within 30 days of the Award's date of service.

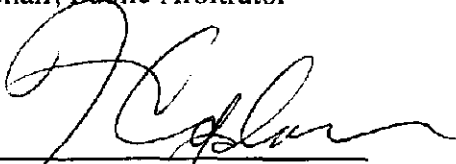
**Concurring Arbitrators' Signatures**



Louis R. Eglash Esq.  
Chair, Public Arbitrator

10-13-00

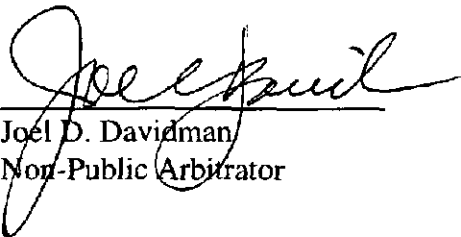
Signature Date



Frank E. Caplan  
Public Arbitrator

10-13-00

Signature Date



Joel D. Davidman  
Non-Public Arbitrator

10-13-00

Signature Date

10-16-00

Date of Service