

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Carl Jansen, (Claimant) v. A.S. Goldmen & Company, Inc., Anthony J. Marchiano, Salvatore C. Marchiano, Stuart E. Winkler, Michael A. Dietz, and Everen Clearing Corp. a/k/a BNY Clearing, (Respondents)

Case Number: 99-00760

Hearing Site: Chicago, Illinois

REPRESENTATION OF PARTIES

Claimant Carl Jansen ("Jansen"): Leslie A. Blau, Esq. and Mitchell Goldberg, Esq., Blau & Bonavich, Chicago, Illinois.

Respondent A.S. Goldmen & Company, Inc. ("A.S. Goldmen"), Anthony J. Marchiano ("A. Marchiano"), Salvatore C. Marchiano ("S. Marchiano"), Stuart E. Winkler ("Winkler"), and Michael A. Dietz ("Dietz") were *pro se*.

Respondent Everen Clearing Corp. a/k/a BNY Clearing ("Everen Clearing"): Henry F. Minnerop, Esq., Brown & Wood LLP, New York, New York.

CASE INFORMATION

- Statement of Claim filed on or about: February 19, 1999
- Amended Statement of Claim filed on or about: November 14, 2000
- Reply to Everen Clearing Corporation's Statement of Answer and Motion to Bar Evidence at Hearing Related to Everen's Failure to Specifically Deny Factual Allegations Raised in the Amended Statement of Claim; Motion to Strike Affirmative Defense and to Bar Evidence Thereof from Being Used at Hearing filed by Claimant on or about: December 29, 2000
- Claimant's Motion for Default or, in the Alternative, to Bar Individual Respondents from Participating in the Hearing, or in the Alternative to Preclude Individual Respondents from Submitting Evidence filed on or about: August 01, 2001.
- Notice of Settlement with Respondents Everen Clearing Corporation and Salvatore Marchiano filed on or about: August 20, 2001
- Notice of Settlement with Respondent Michael A. Dietz filed on or about:

September 13, 2001

- Claimant's Post-Hearing Submission filed on or about: August 20, 2001
- Claimant Jansen signed the Uniform Submission Agreement: February 08, 1999
- Statement of Answer filed by Respondent Everen Clearing Corporation filed on or about: December 13, 1999
- Statement of Answer to Amended Statement of Claim filed by Respondent Everen Clearing Corporation on or about: December 22, 2000
- Statement of Answer filed by Respondent Dietz on or about: November 09, 1999
- Respondent Dietz's Response to Claimant's Motion for Default or, in the Alternative, to Bar Individual Respondents from Participating in the Hearing, or in the Alternative to Preclude Individual Respondents from Submitting Evidence filed on or about: August 09, 2001
- Motion to Stay filed by Respondent Winkler on or about: December 13, 1999
- Motion to Stay filed by Respondent S. Marchiano on or about: December 15, 1999

CASE SUMMARY

Claimant Carl Jansen asserted the following causes of action: Misrepresentation, Failure to Supervise, Unsuitability, Common Law Fraud, Violation of State and Federal Securities Laws, and Violation of NASD Rules.

The causes of action relate to the Imatec Ltd, Imprint Records, Joseph Steven & Company, Inc., and Independent Brewing Company warrants.

Unless specifically admitted in its Answer, Respondents Michael A. Dietz, and Everen Clearing Corp. a/k/a BNY Clearing denied the allegations made in the Statement of Claim and asserted the following defenses:

RELIEF REQUESTED

Claimant Carl Jansen requested:

Compensatory Damages	\$183,000.00
Punitive Damages	not specified
Interest	not specified
Attorneys' Fees	not specified
Other Costs	not specified
Other Monetary/Non-Monetary Relief if any:	

Respondent Everen Clearing Corp. a/k/a BNY Clearing requested:

Attorneys' Fees	not specified
Other Costs	not specified
Other Monetary/Non-Monetary Relief if any:	Dismissal

OTHER ISSUES CONSIDERED AND DECIDED

Pursuant to Claimant's August 21, 2001 settlement notice, Respondents Everen Clearing Corporation and Salvatore Marchiano are dismissed from this arbitration.

Pursuant to Claimant's September 13, 2001 settlement notice, Respondent Michael A. Dietz is dismissed from this arbitration.

After considering the documents and arguments, the panel denied Respondents' Winkler and S. Marchiano's respective motions to stay arbitration.

Respondents A.S. Goldmen & Company, Inc., Anthony J. Marchiano, and Stuart E. Winkler did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators "Panel" determined that Respondents A.S. Goldmen & Company, Inc., Anthony J. Marchiano, and Stuart E. Winkler, have been 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").

AWARD

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

1. Respondents A.S. Goldman, Stuart Winkler, Anthony J. Marchiano are jointly and severally liable for and shall pay to Claimant Carl Jansen the sum of \$60,000.00 as compensatory damages.
2. The parties shall bear their own costs of arbitration, including any attorney's fees, except for those specifically enumerated herein.
3. Any all other relief requested, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$200.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00
Total Member Fees	= \$4,600.00

Forum Fees and Assessments

The panel has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing session or any and hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$750.00	= \$750.00
Pre-hearing conference: January 08, 2001 1 session	
One (1) Hearing sessions x \$750.00	= \$750.00
Hearing Date: August 14, 2001 1 session	
Total Forum Fees	= \$1,500.00

The panel has assessed \$1,500.00 of the forum fees to A.S. Goldmen & Company, Inc.

Fee Summary

1. Claimant Carl Jansen solely liable for:

Initial Filing Fee	= \$ 200.00
Total Fees	= \$ 200.00
Less payments	= \$ 950.00
Balance Due From NASD Dispute Resolution, Inc.	= \$ 750.00

2. Respondent A.S. Goldmen & Company, Inc. is solely liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 1,500.00
Total Fees	= \$ 6,100.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 6,100.00

3. Respondent Everen Clearing Corp. a/k/a BNY Clearing is solely liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Allen D. Schwartz, Esq.

John Heuberger, Esq.

John M. Kramer

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Allen D. Schwartz

10/18/01

Allen D. Schwartz, Esq.

Public Arbitrator, Presiding Chair

Signature Date

/s/ John Heuberger

10/19/01

John Heuberger, Esq.

Public Arbitrator

Signature Date

/s/ John M. Kramer

11/13/01

John M. Kramer

Non-Public Arbitrator

Signature Date

11/13/01

Date of Service (For NASD-Dispute Resolution office use only)

NASD Dispute Resolution, Inc.
Arbitration Case #: 99-00760
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2. Respondent A.S. Goldmen & Company, Inc. is solely liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 1,500.00
Total Fees	= \$ 6,100.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 6,100.00

3. Respondent Everten Clearing Corp. a/k/a BNY Clearing is solely liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

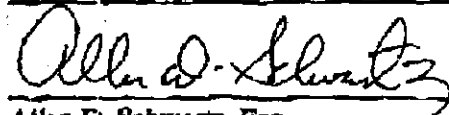
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Allen D. Schwartz, Esq.
John Heubeger, Esq.
John M. Kramer

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


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Public Arbitrator, Presiding Chair

10/18/01
Signature Date

John Heubeger, Esq.
Public Arbitrator

Signature Date

John M. Kramer
Non-Public Arbitrator

Signature Date

Date of Service. (For NASD Dispute Resolution office use only)

NASD Dispute Resolution, Inc.
 Arbitration Case #: 99-00760
 Page 5 of 5

2. Respondent A.S. Goldmen & Company, Inc. is solely liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 1,500.00
Total Fees	= \$ 6,100.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 6,100.00

3. Respondent Everen Clearing Corp. a/k/a BNY Clearing is solely liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
Less payments	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

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John Heuberger, Esq.

John M. Kramer

Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Allen D. Schwartz, Esq.

John Heuberger, Esq.

John M. Kramer

Concurring Arbitrators' Signatures

Allen D. Schwartz, Esq.

Public Arbitrator, Presiding Chair

Signature Date

John Heuberger, Esq.

Public Arbitrator

Signature Date

John M. Kramer

Non-Public Arbitrator

Signature Date

Date of Service (For NASD-Dispute Resolution office use only)

2. Respondent A.S. Goldmen & Company, Inc. is solely liable for:

Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	= \$ 1,500.00
Total Fees	= \$ 6,100.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 6,100.00

3. Respondent Everen Clearing Corp. a/k/a BNY Clearing is solely liable for:

Member Fees	= \$ 4,600.00
Total Fees	= \$ 4,600.00
<u>Less payments</u>	= \$ 4,600.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Allen D. Schwartz, Esq.	Public Arbitrator, Presiding Chair	Allen D. Schwartz, Esq.
John Heuberger, Esq.	Public Arbitrator	John Heuberger, Esq.
John M. Kramer	Non-Public Arbitrator	John M. Kramer

Concurring Arbitrators' Signatures

Allen D. Schwartz, Esq.
Public Arbitrator, Presiding Chair

Signature Date

John Heuberger, Esq.
Public Arbitrator

Signature Date



John M. Kramer
Non-Public Arbitrator

11-13-01
Signature Date

Date of Service (For NASD-Dispute Resolution office use only)