

**Award**  
**NASD Regulation, Inc.**

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In the Matter of the Arbitration Between:

Charles Levey, (Claimant) vs. SG Cowen Securities Corporation, (Respondent) vs. H.J. Meyers & Co., Inc., (Third Party Respondent)

Case Number: 99-03238

Hearing Site: Buffalo, New York

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**REPRESENTATION OF PARTIES**

Claimant, Charles Levey, hereinafter referred to as "Claimant", appeared *pro se*.

Respondent, SG Cowen Securities Corporation, hereinafter referred to as "Respondent":  
Peter Byer, Esq., Director, SG Cowen Securities Corporation, New York, NY.

Third-Party Respondent, H.J. Meyers & Co., Inc. ("Meyers"), did not make an appearance in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: June 29, 1999.

Reply to Respondent's Amended Statement of Answer filed by Claimant on or about:  
February 25, 2000.

Claimant signed the Uniform Submission Agreement: June 29, 1999.

Statement of Answer filed by Respondent on or about: September 29, 1999.

Amended Statement of Answer/ Third-Party Claim filed on or about: February 16, 2000.

Respondent signed the Uniform Submission Agreement: August 16, 1999.

Meyers did not submit a Statement of Answer or sign the Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: Respondent incorrectly issued a margin call although Claimant's account contained marginable stock, and Claimant was forced to liquidate 1500 shares of Digene stock to meet the margin call.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: the stock in Claimant's account was not marginable due to Respondent's determination to limit the number of shares of Digene which could be used as margin; Respondent is entitled to determine whether a particular

security is appropriate for use as collateral for a loan of its funds; and it was Claimant's decision to liquidate the shares of Digene to satisfy the margin call.

In its Third-Party Claim against Meyers, Respondent asserted the following cause of action: Meyers failed to communicate to Claimant the limit that was placed on the number of shares of Digene that could be used as margin, which resulted in the alleged damages incurred by Claimant.

### **RELIEF REQUESTED**

Claimant requested that the trade in question be reversed and the 1500 shares of Digene be returned to him for the dollars netted at the time of the trade on October 5, 1998. Alternatively, Claimant requested the cash difference between the October 5, 1998 trade date price and the market price on the day of settlement.

Respondent requested that the Statement of Claim be dismissed in its entirety.

In its Third-Party Claim, Respondent submitted that should the Panel determine that Claimant is entitled to damages, Meyers is liable for such damages.

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

All proceedings against Third-Party Respondent Meyers are stayed pursuant to a filing of bankruptcy.

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.

### **AWARD**

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

1. Respondent be and hereby is liable for and shall pay to Claimant the sum of \$7,786.99 as compensatory damages.
2. All other requests for relief are hereby denied.

### FEES

Pursuant to the Code, the following fees are assessed:

#### Filing Fees

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

Initial claim filing fee	= \$ 75.00
Third-Party Claim filing fee	= \$500.00

#### 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, SG Cowen Securities Corporation is a party.

Member surcharge	= \$300.00
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#### Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with a single arbitrator x \$250.00	= \$500.00
Pre-hearing conferences: May 3, 2000 1 session	
June 22, 2000 1 session	

One (1) Hearing session x \$250.00	= \$250.00
Hearing Date: July 11, 2000 1 session	
Total Forum Fees	= \$750.00

1. The Arbitrator has assessed \$375.00 of the forum fees against Claimant.
2. The Arbitrator has assessed \$375.00 of the forum fees against Respondent.

### Fee Summary

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 75.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 450.00
Less payments	= \$ 325.00
Balance Due NASD Regulation, Inc.	= \$ 125.00


2. Respondent be and hereby is solely liable for:

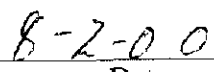
Third-Party Claim Filing Fee	= \$ 500.00
Member Fees	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 375.00</u>
Total Fees	= \$1,175.00
<u>Less payments</u>	<u>= \$1,800.00</u>
Refund Due Respondent	= \$ 625.00

All balances are due and payable to NASD Regulation, Inc.

**Arbitrator's Signature**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
John P. DeLuca  
Public Arbitrator

  
Signature Date

August 16, 2000  
Date of Service (For NASD office use only)