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Vol. 43, No. 58, May 15, 2006

Securities Arbitration | 2006

Taking Responsibility

Luncheon
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SCAN – the
SAC-CCH Awards
Network

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- Update on the evolution of securities arbitration over the last 20 years
- Identify the responsibilities assigned to each of the parties in securities arbitration
- Examine attorneys' ethical responsibilities involved in deciding whether to take a case
- Have your questions answered by the NASD's and NYSE's Directors of Arbitration

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NEW YORK CITY, August 16, 2006



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Securities Arbitration

Taking Responsibility

2006



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Why You Should Attend

In recent times, we have observed a pervasive failure to take responsibility for the natural consequences of one's actions, whether it's in everyday personal interactions or investment decisions. *Taking responsibility is the balance point of securities arbitration and mediation.* The reality, in customer-broker relationships, is that each party has defined responsibilities, which are often obscured when customers and brokers appear before arbitrators and start playing "the blame game." In the end, the arbitrators' Award should be a reflection of responsibilities, an apportionment of obligations, actions and inactions. For this, our 20th anniversary program, we have assembled a stellar faculty of customer and defense attorneys, mediators, arbitrators, expert witnesses and the NASD's and NYSE's Directors of Arbitration, who will examine the important role of "responsibility" in securities arbitration and mediation practice.

What You Will Learn

- An update on the evolution of securities arbitration over the last 20 years
- The battle between equity and the law in the arbitration and mediation contexts
- What are the responsibilities assigned to each of the parties in securities disputes?
- What responsibilities do administrators have to prevent abuse of the process?
- What are attorneys' ethical responsibilities to their clients and arbitrators?
- What are experts' and mediators' responsibilities to the parties?

Plus you'll have a unique opportunity to have your questions answered by the NASD's and NYSE's Directors of Arbitration.

Who Should Attend

Attorneys who represent customers and those who represent brokers, for those relatively new to securities arbitration and mediation, as well as attorneys who recognize the need to sharpen one's skills. Through the give-and-take of moderated panels, the faculty will present varied viewpoints on the issues explored.

PLI's Nationally Acclaimed Course Handbooks

All program attendees* will receive a copy of the Two-Volume Course Handbook. These softcover, bound volumes were prepared specifically for this program and will also stand alone as a permanent reference. PLI's Course Handbooks represent the definitive thinking of the nation's finest legal minds, and are often the standard reference in the field. Please note: Individual Webcast attendees will receive a downloadable version of the Handbook the day of the program, and the Course Handbook after the program date.

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Program Schedule

Please plan to arrive sufficiently in advance of the conference start time to register. A continental breakfast will be available upon your arrival.

MORNING SESSION: 9:00 A.M. – 12:30 P.M.

9:00 Introduction

David E. Robbins, H Thomas Fehn

9:10 Is Arbitration Still a Forum of Equity?

- What are the principles of equity that should apply in securities arbitration, in exchange for waiving the right to litigate the dispute?
- How can you get arbitrators to apply equity over the law when necessary?
- Should arbitrators, like jurors, be instructed on the law?
- What laws should be applied in customer-broker disputes to meet a customer's burden of proof, even in a forum of equity?
- Who is responsible for the choice between equity and law – the parties or the arbitrators?
- What is the role of Reasoned Awards in this controversy?

Moderator: David E. Robbins

Theodore Krebsbach, C. Thomas Mason III, Richard P. Ryder

10:10 Fashioning Affirmative Defenses Out of a Customer's Responsibilities – What Should Work and What Won't?

- Are arbitrators placing too much of the blame on customers?
- Should customer responsibilities include:
 - Reading every page of every form before signing it
 - Questioning anything they don't understand about those forms
 - Carefully and promptly reviewing trade confirmations and monthly account statements
 - Understanding all the risks involved in a solicited security or recommended strategy
 - Appreciating the risks of margin trading
 - Mitigating losses early, whether or not such action is required by law
- How do arbitrators' personal experiences affect these expected responsibilities (i.e., the Everybody Lost Money defense)?

Moderator: Seth Lipner

Robert S. Banks, Matthew Farley, Bruce Lewitas, Eric Shames

11:10 Break

11:25 What Are the Responsibilities of Brokers, Branch Managers and Firms – At Point of Sale and Beyond?

- What benefits should customers expect from full service brokerage firms?
- What obligations does a firm have to its customers at point-of-sale and thereafter?
- To what extent are firms responsible for money managers and hedge funds they recommend to their customers?
- What are the customer accounts and supervisory documents a firm is required to maintain, in what form and for how long?
- When does a broker become his customer's fiduciary and what does that mean?

Moderator: Matthew Farley

Christopher J. Bebel, John Fazio, Edward Larkin, Eric Shames

12:30 Networking Lunch – Provided by SCAN – the SAC-CCH Awards Network*

*SCAN – the SAC-CCH Awards Network – is a joint venture between Securities Arbitration Commentator, Inc. and CCH, Inc. Securities Arbitration Commentator has been recognized as the clearinghouse for securities arbitration information since 1989. CCH has been recognized for their authoritative and comprehensive legal content for over 80 years. Together, they have developed SCAN Plus and SCAN Premier, the only comprehensive Internet sources for researching and obtaining actual copies of securities arbitration awards. The SCAN Award Library includes over 39,000 awards from NASD, NYSE, PCX, AAA, NFA, CBOE, AMEX, MSRB, and PHLX, dating back to 1989. To learn more, contact a CCH Representative at 888-224-7377 or take a free tour of SCAN Plus by visiting our Web site at <http://scan.cch.com>.

AFTERNOON SESSION: 1:30 P.M. – 5:00 P.M.

1:30 What Are the SROs' Responsibilities?

- What are the administrators' responsibilities to the parties?
- The Ruder Commission Recommendations – 10 years later, which recommendations have been implemented?
- What standards are given to arbitrators to guide their responsibilities?
- Update on NASD Codes and NYSE Rules that impact this process
- How does online access to the forums expedite the process?
- The art of arbitrator selection under the SROs' rules
- What recourse do you have when the SROs fail to carry out their responsibilities?
- 20 minute "Ask the Directors" Q&A Session

Moderator: David E. Robbins

Jeff Abrams, George H. Friedman, Karen Kupersmith

2:40 What Are the Attorneys' Ethical Responsibilities?

- What are an attorney's responsibilities when deciding whether to take a case?
- What are their ongoing fiduciary duties to their client?
- What is their responsibility to educate the arbitrators on the facts, issues, and applicable laws?
- Do they have an ethical obligation to settle cases?

Moderator: Theodore Krebsbach

Edward Larkin, Seth Lipner, C. Thomas Mason III

3:10 What Are the Experts' Responsibilities?

- Are experts responsible for helping their clients prevail?
- What are the experts' responsibilities as an advocate?
- What are the experts' responsibilities at mediation?
- How do they "add value" to a case even if arbitrators are often skeptical of their testimony?

Moderator: Ross P. Tulman

Christopher J. Bebel, John Fazio, Dr. Edward S. O'Neal

3:40 Break

3:55 What Are the Mediators' Responsibilities?

- How can you ensure that your mediator is unbiased?
- What to expect from your mediator:
 - Prior to the mediation
 - At the mediation
 - Post-mediation in the event a settlement cannot be reached that day

Moderator: Mark A. Buckstein

Jeff Abrams, Bruce Lewitas, Debra L. Mellinkoff

4:30 What Are the Arbitrators' Responsibilities?

- How can you ensure that arbitrators fulfill their responsibilities to the parties and the process?
- How should Reasoned Awards be written to inform the parties without giving the losing party a license to win a motion to vacate?
- What is considered outside of the arbitrators' responsibility?

Moderator: H Thomas Fehn

Jeff Abrams, Robert S. Banks, Mark A. Buckstein, Dr. Edward S. O'Neal

4:55 Closing Remarks

David E. Robbins, H Thomas Fehn

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COURSE HANDBOOK

Securities Arbitration 2006: Taking Responsibility, \$199.

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The Sarbanes-Oxley Deskbook

By John T. Bostelman (Sullivan & Cromwell LLP, New York City)

Updated throughout the year to help you keep pace with the unprecedented speed, scope, and variety of new public company regulations, **The Sarbanes-Oxley Deskbook** is today's most comprehensive and current one-stop guide to these far-reaching reporting, disclosure, governance, and auditing reforms triggered by the Sarbanes-Oxley Act (SOA).

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By Larry D. Soderquist (deceased, formerly Professor of Law and Director of the Corporate and Securities Law Institute, Vanderbilt University)

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