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SECURITIES ARBITRATION COMMENTATOR

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IN THIS ISSUE

Survey of Public Award Results

(ed. This issue has been more than two months in the making. We apologize, once again, for the erratic publication schedule we practice. We were not particularly surprised to see a similar acknowledgment of delay on the cover page of 4 SAC 5 — which was the last time we performed the Public Award Survey. The increasing number and complexity of Awards makes the task of tabulating and organizing the data reflected here daunting, and one fraught with obstacles and delay. There is also a heightened need for proofing and re-checking our calculations. Yet, the yield in information value continues, in our view, to be well worth the effort.

Having completed work on the Survey, we arose from the clutter of calculator tape and Chart print-outs to find ourselves, not only at the end of another SAC Volume, but also at the end of another year. ***From the staff at SAC, we wish our subscribers all the best for the holiday season and a happy, prosperous 1994!****).*

Happy Holidays To All!

Background for Survey

SAC's Award Database presently contains more than 8,000 Arbitration Awards issued by the securities self-regulatory organizations. We have published surveys from time to time in the Commentator, focusing upon different values and results reflected in the Awards. The last survey covered punitive damage awards granted by SRO Arbitrators, 5 SAC 7(1). The current survey of customer-initiated claims is the third time we have undertaken a fairly comprehensive analysis of results for this largest and most significant category of disputes.

We review those earlier Award Surveys below, so that readers can make some comparisons among the findings. The methodologies we have followed in preparing this Survey parallel those utilized in our past analyses. The same caveats, qualifications, and limitations apply as well. Rather than repeating them here, we refer the reader to the early paragraphs of our past Survey articles.

The First 1,000 Awards

In April 1990 (3 SAC 3 & 4), we analyzed data on almost 1,000 customer-initiated Awards to produce our

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SAC Subscription Rate Increase

This issue brings us to the end of the fifth volume of the Commentator. Since our beginning, SAC has undergone many changes, and much development and expansion. Our first volume was just six pages -- less than one-third the size of our present overstuffed editions. One thing has remained constant, however: our subscription price of $228. A rate increase is finally necessary to cover the costs of our expanded office and staff. So, beginning with the new year and Volume VI, SAC will begin charging $294 for twelve issues (compare this to the seminar fees being charged nowadays; see "Schedule of Events"). That's an increase of $5.50 an issue. Because we deeply appreciate our subscribers' loyalty and enthusiastic support, we are offering you a brief "window of opportunity" to renew at the old rate of $228. If you want to take advantage of this last chance, turn to the subscription blank on page 9, clip and return to us by December 31, 1993 to get the price break...and thank you for your continuing loyalty and support.

AWARD SURVEY *cont'd from page 1*

first Public Award Survey. Results for the five major wirehouses showed customers achieving a 59-60% "win" rate in decided disputes with all but Merrill Lynch (42%)("win" rate is determined by comparing all Awards decided with those in which the customer recovered some monetary award). The overall "win" rate for all broker-dealers was 55%. Situs selection seemed to reveal more of a variance in "win" rates, as the range swung from 48% in Pennsylvania-based decisions to 63.5% in California-based decisions.

The April 1990 Survey was the first serious attempt to demonstrate quantitatively, not only how often customers won in SRO Arbitration, but also how much they won. The amounts assessed in the 964 Awards surveyed in the first Survey aggregated $32.2 million. Since there were 532 customer "wins," the average amount awarded came to $60,605. At the time, many critics of arbitration acknowledged a satisfactory "win" rate in arbitration, but voiced skepticism as to how satisfactory the recovery was.

To place some perspective on the award amounts, we tallied the compensatory claims of the winners (i.e., what customers stated they lost) and compared that figure with the total amount awarded to those same customers. The resulting ratio, which we called the "recovery rate," fluctuated more widely in broker-dealer comparisons than the "win" rate, but averaged an overall 50%. In individual state comparisons, the fluctuation was so wild (17% for Pennsylvania - 75% for California) as to make us doubt sample size was adequate.

The First 3,000 Awards

In the second Survey, published in September 1991 (4 SAC 5), we reviewed "the First 3,000 Awards." When we calculated the "recovery rate" for Customer/Member Awards (customer-initiated claims in excess of $10,000) by situs, the top states reflected a much tighter grouping (34% for New York and Florida - 53% for California) than we encountered in the first Survey. Overall, the recovery rate for victorious customer Claimants was 40%, down from 50%, but the average "win" rate rose from 55% to 58%. Customer "wins" moved to a slightly higher level in cases against Shearson, Merrill Lynch, and PaineWebber, dropped somewhat against Prudential and dramatically against Dean Witter. Dean Witter and Merrill shared the lowest "win" rate, at 48%. Interestingly, Dean Witter was the only one of the five with a lower "recovery rate" than the 40% average for all broker-dealers — and the top five accounted for 35% of all Awards surveyed. Prudential's "recovery rate" was the highest at 50%. PaineWebber had the highest customer "win" rate, at 61%.

The survey covered a point through August 1990 (Awards started becoming public in May 1989). There were 2,279 customer-initiated Awards taken from a 3,000 Award total, more than twice as many as the first Survey, and the total amount awarded also more than doubled to $67.8 million. The average amount awarded tallied $51,194. Thus, despite the somewhat higher "win" rate, the average "recovery rate" and the average amount awarded seemed to be on a moderate decline.

In the 1991 Survey, we also provided a statistical analysis of Award results by the top five investment vehicles, or "products." Quite naturally, the greatest number of Awards dealt with complaints related to equity investments, the most common form of securities investment. The surprise was in the dollars claimed and awarded, when we reviewed options as a Product. Options appeared as the "No. 2" product in dispute <u>and</u> reflected a higher total of dollars claimed than equities, as well as a higher total amount awarded ($22.2 million). Mutual funds was the only Product to display a lower "win" rate (51%) for customers than the norm, but those customers who did win in mutual fund disputes achieved the highest average "recovery rate" (65%).

Finally, the 1991 Survey compared results between Awards rendered by American Arbitration Association Panels and those rendered by SRO Panels. The "win" rates were very close, so we performed a breakdown of Awards on the basis of customer recoveries. Again, the comparison disclosed a distribution of monetary awards to customers that was patterned quite closely. A somewhat greater percentage of victorious customers received a middle-of-the-road (10% to 90%) Award at AAA. More victorious customers received 100% or more of their compensatory claims (31.7% vs. 18.4%) at the SRO's. Despite the higher percentage of SRO Awards in the top "recovery" bracket, the AAA Survey of its Awards reflected an average "recovery rate" of 56.5%.

While this may seem anomalous, we attributed the higher "recovery rate" at AAA to a greater incidence of substantial punitive damage assessments. To verify our guess that there were some outlying award amounts among the AAA Awards that were skewing the average upwards, we compared the <u>median</u> "recovery" percentage at AAA to the SROs. Sure enough, the SRO Award disclosed a median "recovery rate" of 56.3% and AAA's median "recovery rate" was 53.8%.

Statistical analyses are always subject to interpretation and potential manipulation. Certainly, we claim no special expertise at analyzing statistical results and, for that reason, we tried to present the results we had tabulated in as many ways as we could and let readers form their own conclusions. With those admissions, we still saw little in the quantitative analyses that lent credibility to the suspicion of many concerning SRO Arbitration in the early post-Crash era. Indeed, the comparability of results between AAA, an independent and highly respected neutral forum, and the SRO forums was so great that we felt the existence of a "fairness gap" was unlikely.

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AWARD SURVEY *cont'd from page 2*

That our reported findings in these earlier Surveys allayed any suspicions of a "fairness gap" is not a proposition we would forcefully argue. Our access has always been limited to a tabulation of public Award results, without the benefit of sophisticated statistical tools. We had no access to case settlement statistics or pleadings by the parties, but relied instead upon reports by AAA of its own results in gross statistical form and upon the claim and outcome figures that appeared in SRO Awards.

In May 1992, however, the General Accounting Office, Congress' watchdog agency, concluded a two-year investigation of SRO Arbitration, which attempted comparisons with AAA results, litigation results, and results from the government-run CFTC reparations process. The findings and conclusions, which derived from an exhaustive examination of 6,647 arbitration case files consisting of settlements, decided cases, etc., that closed between January 1, 1989 and June 30, 1990, were summarized in a 110-page Study, "Securities Arbitration: How Investors Fare." We capsulized the Report's findings in our September 1992 issue (5 SAC 1(1)).

On a quantitative plane, the results were conclusive: "Statistically," reported the GAO, "neither the specific forum nor whether the forum was industry-sponsored or independent affected arbitration decisions." This was true, the agency found, both as to the customer "win" rate (59% at the SROs; 60% at AAA) and the winning investor's average "recovery rate" (60% at the SROs and 57% at AAA). The agency also found (as had SAC) that about 30% of the winning SRO Awards satisfied 100% or more of the investor-claimant's claimed losses. The small statistical variances were ironed out to a conclusion of relative comparability by a series of multivariate statistical analyses.

There were some "explanatory variables" that exerted an impact on outcome, such as attorney representation (which heightened recovery potential, but not "win" rate), size of claim (those under $20,000 enjoyed odds of 1.78 to 1 of yielding a "recovery rate" above 60%), product (options cases generally were more likely to settle; commodity options claims were 1.8 times more likely than other products to generate a monetary award for the investor), and oral hearings ("Securities investors whose cases were decided after a hearing, whether at SRO-sponsored forums or AAA, were 1.4 times more likely to receive an award than investors whose cases were decided only on a review of written evidence.").

The Current Award Survey

The First 5,000 Awards

Given the GAO findings, we have been less concerned with comparability analyses and justifying statistical differences between AAA and the SROs in this survey. Summarized in a separate side-bar article are statistics released by AAA on its securities Award results for 1992. In May 1993, AAA inaugurated its revised Securities Arbitration Rules, which provide for the public availability of enhanced Awards (see "In Brief" for a description of the new AAA Award format and 5 SAC 9(1) for Dick Lerner's summary of the various rule changes).

Thus, all AAA securities Awards filed after May 1, 1993 will be available on SAC's Award Database and can be incorporated into our future Award Surveys. For now, we have concentrated on Awards rendered in customer-initiated SRO proceedings. The Survey Charts focus upon the product involved, the selected forum, the hearing situs (by state), and the broker-dealer respondent in the case.

Overall Results

Our Survey covers Awards rendered from May 1989 through June 1992, about a three-year period. Claims asserted by customers exceeded, for the first time in our surveys, more than **$1 billion** ($1,082,486,000). Remember that this considerable amount accounts only for those SRO Arbitration claims that did not settle and disregards claims for relief where damages aredeterminable from the Award. Compensatory claims totalled $637.7 million. These and other results are reflected on the "Broker-Dealer" Chart in the centerfold of this issue.

Almost 5,000 Awards (4,962) form the "universe" surveyed, the 2,279 Awards from the 1991 Survey, plus 2,683 added in the two years by which the current Survey's time frame extends our review. Approximately 56% of these Awards (2,759) are classified as "wins" for the investor-claimants. The total compensatory claims involved in the 2,759 Awards, as to which some recovery was granted, was $400.2 million. This figure is reflected under the caption, "Related Compensatory Claims (RCC)," since it represents the investor losses (according to investors' estimates) which <u>relate</u> to vindicated claims. As to this $400 million in RCC, SRO Arbitrators granted relief totalling $165.7 million — a 41% recovery rate.

Our Survey is cumulative, meaning that the 2,279 Awards which were analyzed in the 1991 Survey are part of the 4,962 Awards included in the current Survey. Accordingly, any factors which have changed the "outcome" measurements from one survey to the next are factors whose impact has been most significant over the two years by which the current Survey extends the 1991 Survey. That impact, while perhaps a significant shift when measured against the two years, will be mitigated when measured against the whole. For instance, to move the customer "win" rate from 58% in the 1991 Survey to 56% in the current Survey required a drop in the "win" rate over the 1990-1992 "extended period" to almost 53%.

Why, then, if we are interested in identifying such shifts, do we continue using the cumulative approach? The main reason is that the cumulative approach lessens the effect of truly outlying statistics — individual case results that can skew the overall results dispro-

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AWARD SURVEY *cont'd from page 3*

portionately. Secondly, cycles or fluctuations will appear in arbitration, just as in every human activity; it is more relevant, then, to view the norm on a historical plane, until that shift becomes a trend. Finally, our "snapshot" surveys provide a historical stability to the resulting picture. Moreover, when compared to one another in retrospect, the surveys should give the reader the ability to isolate periods of real change or stability.

Broker-Dealer Chart

Having 5,000 Awards to analyze gave us sufficient confidence to expand the number of "active" broker-dealers on our Chart to ten. Some of the five new additions are quite different, not only in size but in business mix and markets, from the top five. Nevertheless, we thought comparisons among the ten might prove interesting. For instance, Smith Barney and Shearson have combined into one firm. Smith Barney, viewed separately, has enjoyed one of the lowest customer "win" rates on the Chart and the lowest "recovery rate." Shearson has always been our volume leader, accounting for about 16% of all Awards. What will be the effect of the combination, when quality control meets volume?

We also broke out statistics for the latest six months, January 1, 1992 to June 30, 1992, as to each of the top five brokerage firms. Six-month statistics for the new additions would not provide enough depth to be representative. One reason we did this was to deal with the objection of some houses to our surveys, who state that, in recent times, things have gotten much better. It may also reveal some trends. For instance, Prudential's limited partnership problems may soon make it "No. 2" in Award volume on our Chart. It is close to Merrill Lynch in total volume already and, in the latest six-month period, racked up 70 Awards to Merrill's 46. One could argue, of course, that the six-month statistical sample for each of the five majors is too small. This may be true, but many of the shifts reflected in the six-month statistics demonstrate a consistency from one broker-dealer to the next.

For example, PaineWebber, as has been the case in our previous surveys, displays the highest customer "win" rate (61%) among the majors. In this Survey, it also has the lowest "recovery rate" (31%). These relative standings remain true in the latest six-month statistics, even though PaineWebber appears to have achieved some decline in both rates from the cumulative norm. All of the five broker-dealers, except Dean Witter, achieved a decline in the customer "win" rate in the six-month period. This corresponds to a similar finding for all broker-dealers, where the "win" rate declined from 56% overall to 50% for the six-month period (although, as we shall see below, a decline in the Small Claims "win" rate appears to be the source of this difference).

PaineWebber was the only one of the five to see a decline in its "recovery rate" for the six-month period to an unusually low 16%, but this decline was not particularly salutary. Related compensatory claims (RCC) for the latest six-months were almost half (\$15.7MM-\$32.2MM) of the total RCC for the three-year cumulative period. Total awards (TA) for the six-month period were about one-quarter of the whole for the three-year period. Viewed another way, PaineWebber defeated Claimants in 14 cases involving \$928,000 in compensatory claims during the six-month period, but lost 19 cases involving \$15.8 million in compensatory claims. Fortunately for PaineWebber, the monetary awards on that \$15.7 million only yielded the winning Claimants \$2.6 million.

The "recovery rate" for all broker-dealers surged from 41% to 61%, when one compares the six-month period to the cumulative figures. Thus, the shift is in tandem with the general shift in "recovery rate" for the majors. It should be noted here that Awards relating to the five majors comprise about 42% of the total Awards surveyed. That proportion is up from 35% of the whole in our 1991 Survey. The ten broker-dealers named in our Chart account for about 50% of the total number of Awards.

A final change to the Broker-Dealer Chart appears in the "Percentages" Section. There, we added two further "outcome" measurements. The first (TA:#CWs) compares the total amount awarded (TA) to the number of customer "wins" (#CWs), leading to an average amount per winning Award. Overall, that figure was \$60,049, up from \$51,194 in the 1991 Survey. The average amount awarded is calculated as well for each of the individual firms. Among the five majors, Dean Witter is the only one to achieve a lower average than for all broker-dealers. Bear Stearn's unusually high average is skewed by a single Award (<u>Tottenham v. Bear Stearns</u>, SAC ID #9011039) of more than \$3 million.

The second measurement we added (TA:#RRs) seeks to place the aggregate sums awarded (TA) against each firm in perspective, by relating it to the size of that firm. This suggestion came from one of our subscribers after the 1991 Survey. The comparison figure we chose for this ratio is the number of retail registered representatives (#RRs) for each firm, as listed in the Securities Industry Association Yearbook for 1992-1993. Among the five majors, Dean Witter and Merrill Lynch reflect the lowest "Award cost" per broker, around \$1,000-\$1,200. Charles Schwab, a national discount brokerage, has the lowest overall, at \$400 per broker. Among true retail commission houses, A.G. Edwards had the best outcome (\$500 per broker).

SRO Forum Chart

For the first time in our three major Surveys, our customer "win" tallies for Small Claims cases was somewhat out of line with those for the Customer/Member Awards. Separately, Customer/Member Awards disclosed a 57.2% "win" rate for investor-Claimants, but when combined with a 53% "win" rate on Small Claims Awards,

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AWARD SURVEY *cont'd from page 4*

Award Analysis Of The Five Most Active Forums

CustomerMember Only

Forum	No. Awds.	No. Cust. Wins	{TCC} Total Comp. Claims ($000's)	{TA} Total Awards ($000's)	{RCC} "Related" Comp. Claims ($000's)	Percentages: Cust. Wins %	TA/TCC %	TA/RCC %
NASD	**2,104**	**1,245**	**391,972**	**113,387**	**235,560**	**59**	**29**	**48**
7/1/91... 6/30/92	705	406	133,294	48,455	85,315	58	36	57
NYSE	**804**	**425**	**225,778**	**42,246**	**153,071**	**53**	**19**	**28**
7/1/91... 6/30/92	221	111	51,115	12,395	31,846	50	24	39
PSE	**57**	**34**	**2,695**	**2,548**	**1,382**	**60**	**95**	**184**
7/1/91... 6/30/92	22	14	1,322	620	756	64	47	82
AMEX	**38**	**21**	**3,564**	**1,602**	**2,431**	**55**	**45**	**66**
MSRB	**44**	**21**	**4,036**	**1,376**	**2,658**	**48**	**34**	**52**
All Forums	**3,092**	**1,769**	**629,824**	**162,598**	**396,139**	**57**	**26**	**41**
7/1/91... 6/30/92	984	546	189,283	63,622	120,160	56	34	53

the overall rate slipped to 56%. In the past, the two "win" rates have always been within a point of one another. "Recovery rates" for Small Claims Awards have characteristically been higher than for Customer/Member Awards (75% in the current Survey). This has never had a skewing effect, though. Only $3.1 million of the $165.7 million in total monetary awards relates to Small Claims cases; thus, the impact of Small Claims recoveries on the overall "recovery rate" is minimal.

In constructing our SRO Forum Chart, we decided to exclude Small Claims cases. NASD issued 1,287 of the 1,870 Small Claims Awards and NYSE handled most of the remainder. Because the skewing effect on results at some forums could be disproportionate to the skewing effect at the other forums, we chose to leave out Small Claims. In capsule form, the American Stock Exchange had the highest "win" rate for Small Claims grievants (62%) and New York Stock Exchange had the lowest (42%). Average "recovery rates" for Small Claims winners were highest at the Pacific Stock Exchange and the Municipal Securities Rulemaking Board (95% and 94%, respectively) and lowest at the AMEX (53%).

The Forum Chart reflects results at

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AWARD SURVEY *cont'd from page 5*

the top five arbitration forums for the three-year period covered by our Survey, with a separate breakout for the latest twelve months, 7/1/91-6/30/92. The one-year breakout is restricted to NASD, NYSE and PSE, due to the small size of our samples for AMEX and MSRB. Small Claims are not included in the six-month figures, but it is primarily a drop in the "win" rate for Small Claims cases to 47% for the latest one-year period that accounts for the difference between the Customer/ Member "win" rate of 56% on the forum Chart and the overall "win" rate for the latest six-month period of 50% on the Broker-Dealer Chart.

"Win" rates for the major forums seem to form a fairly close grouping. NASD, which reportedly is capturing about 80% of the current filing volume, stands just a bit above the norm for both our long-term and short-term reviews. This forum handled approximately 68% of the volume over the three-year survey period and accounted for a bit more in the latest twelve months. The "recovery rate," both for the short- and long-term survey periods, are also a little above the norm at NASD. "Recovery rate" on NASD Small Claims is 82% for the three-year period and 77% in the most current six-month period.

We would caution against reliance on the "recovery rate" (184%) for PSE Awards. Many of the early Awards do not reflect an amount claimed by the customer. In more recent times, PSE Awards regularly indicate an amount for total claims and compensatory claims. The effect of the missing claimed amounts has been to understate the denominator in the "recovery rate" ratio and to overstate the result. That this is so can be seen by viewing the

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Award Analysis Of The Eight Most Active States

CustomerMember Only

State Situs	No. Awds.	No. Cust. Wins	{TCC} Total Comp. Claims ($000's)	{TA} Total Awards ($000's)	{RCC} "Related" Comp. Claims ($000's)	Percentages: Cust. Wins %	Percentages: TA / TCC %	Percentages: TA / RCC %
NY	657	376	214,623	31,862	125,749	57	15	25
CA	584	329	99,360	27,319	56,866	56	28	48
FL	350	226	54,089	27,479	41,460	65	51	66
IL	164	81	20,305	4,687	7,963	49	23	59
TX	140	84	31,691	11,152	18,716	60	35	60
PA	125	72	20,714	6,604	13,542	58	32	49
MA	100	47	31,349	5,075	26,340	47	16	19
GA	84	54	25,642	8,991	23,066	64	35	39
All States	3,092	1,769	629,824	162,598	396,139	57	26	41

AWARD SURVEY *cont'd from page 6*

PSE average "recovery rate" (82%) for the latest twelve months, when claimed amounts were regularly offered in the Awards. This example underscores the importance of sample size to the integrity of the results; a few omissions of data in a small sample can cause material distortions.

Most Active States Chart

The top eight states, representing those most active as hearing situses for SRO arbitration hearings, are surveyed in this Chart. We included only Customer/Member Awards in our analysis, since many Small Claims cases are farmed out for arbitral determination without a hearing. The GAO Study eliminated state situs as an "explanatory variable," so we cannot say that the differences reflected on the Chart are meaningful. Nevertheless, we have expanded our review to the top eight states, as the sample now allows deeper probing. These eight states account for 72% of the total number of Awards surveyed for our three-year period of review.

GAO may be right. Pennsylvania, which in our 1990 Survey, appeared to lag the averages (48%), now falls right in the middle. California seemed to offer a high "win" and "recovery rate" for investors in the earlier Surveys (63.5% and 75%, respectively) . It remains the second most active state, second only to New York, but the aver-

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Award Analysis Of The Top Six Products In Dispute*

CustomerMember & Small Claims

Product**	No. Awds.	No. Cust. Wins	{TCC} Total Comp. Claims ($000's)	{TA} Total Awards ($000's)	{RCC} "Related" Comp. Claims ($000's)	Percentages: Cust. Wins %	Percentages: TA/TCC %	Percentages: TA/RCC %
Equity	1,349	792	148,765	47,247	98,522	59	32	48
Options	599	357	206,616	40,670	150,177	60	20	27
Direct Investments*	291	181	66,160	17,277	31,135	62	26	55
through 6/30/92	450	275	95,359	33,844	45,294	61	36	75
Fixed Income	392	228	49,192	15,713	30,476	58	32	52
Mutual Fds	358	200	21,897	9,379	13,440	56	43	70
Commodities								
SROs	65	42	79,373	10,012	70,146	65	13	14
NFA	225	140	10,548	3,105	6,158	62	29	50

***The Product Chart reflects data in Awards rendered from 5/10/89 through 9/31/91 with the exception of Direct Investments which includes data both from 5/10/89 through 9/31/91 and 5/10/89 through 6/30/92.

**** Some Awards involve more than one product among the transactions in dispute. Such Awards will be counted more than once in the tabulation of these product statistics.

AWARD SURVEY *cont'd from page 7*

ages it displays have moderated.

As to the remaining states, Massachusetts, which was not included in our earlier Surveys, assumes the low position for both "win" rate and "recovery rate" in this review (47% and 19%, respectively). Illinois ranked lowest on the "win" rate measurement (47%) in our 1991 Survey and it continues to hold a spot on the low side (47%). Florida has appeared in the third slot in our previous Surveys, as it does here. Its "win" rate has always been near the top; it ranks first in this Survey (65%). Florida has also moved from past "recovery rates" of 26% and 34% to the highest percentage in this year's review of 66%.

Product Chart

The investment vehicle at the center of each dispute must be described in each SRO Award. Often, there are several cited in the Award. We record multiple products, limiting the field to about three, and, for this Chart, count the Award and the entire amount awarded toward each listed Product. There is no way to make allocations and we, therefore, double-count Awards in this Chart.

The groupings on customer "wins" in this Chart are very tight. Commodity futures Awards are tallied separately for securities SROs (65 Awards) and the National Futures Association (371), the major commodities arbitration forum. Commodities options would be included within these two groupings, although futures are the predominant commodities product. Direct Investments, a/k/a limited partnership interests, indicated a fairly high customer "win" rate, when we surveyed this Product in the 1991 Survey (61%) and in our January 1992 issue (64%)(4 SAC 9(3). The "recovery rate" in limited partnership cases has continued to climb toward the high side (55% in the 1991 Survey; 70% in the Jan. '92 issue; 75% in this Survey).

Conclusion

"Full disclosure" is the touchstone by which regulation of our securities markets is guided. Full disclosure in the arbitration process has informed the investor and his or her representatives and enabled them to separate fact from myth in evaluating the fairness of the SRO Arbitration system. The benefits to users that free access to individual Awards has provided recently led the AAA to adopt a public availability stance. NASD has extended public availability to Arbitrator names (which were initially redacted) and to Awards involving just "industry" parties. In a couple of years, as these new Awards enter the data stream, there will be new areas about which we can report.

These moves to even more complete disclosure signify that, as Arbitrators expand their roles and deal with increasingly complex and diverse issues, essential information to judge their performance will be available. SAC's surveys over the past five years provide a picture, in quantitative form, of the process in development and in

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AAA: 1992 Case Statistics

Arbitrators serving through the American Arbitration Association decided 163 securities cases during 1992. Most of the cases were customer-initiated (149); the remainder were filed by broker-dealers for debit balances. Of the 149 customer-initiated claims, some 93 resulted in a monetary award to the customer-Claimant. This "win" rate of 62.4% led to awards to customers totalling $11.5 million and an average award of $124,105. The highest amount awarded in a single case was $1.9 million.

In terms of filings, AAA received 485 new securities cases in 1992. Unauthorized trading and churning allegations constituted less than 6% of the total. The primary allegations lodged by customers were for breach of fiduciary duty (36%), fraud (10%) and suitability (10%). The median processing time for concluded cases was 9.1 months. Those that went to hearing took almost three days to complete on average (median: 2 days). About a third of the cases were heard by a single Arbitrator.

Compared to 1991, the case filings were down (586 in 1991), but the number of decided cases was up (151 in 1991). The customer "win" rate in decided cases was only 48.8% in 1991, down from 57.6% in 1990. The distribution of Awards disclosed that some 13.2% of the 1991 Awards paid customers 100% or more of what they sought. In 1992, this percentage rose to 24.2%.

The "recovery rate" for 1992 winners, that is, the percentage comparison of average amount awarded to the average compensatory claim, remained quite low at 31.2%. For 1991, the "recovery rate," referred to as the "average % award" by AAA, had dipped to 29.1 from 56.5% in 1990. Given the high customer "win" rate and the greater percentage of Awards in the "100% or more" category, it seems likely that the "recovery rate" has been affected by some outlying individual Award figures. This seems confirmed by a "median % award" of 68%, the highest AAA median percentage in the last three years.

At the end of September 1993, AAA had surpassed the total case filings for 1992. The Association reported 536 new securities cases, in which total claims aggregated $234 million. ■

AWARD SURVEY *cont'd from page 8*

full swing. At this point, the number of Awards available for review permits analyses for factors that were not feasible before. If there are statistical questions or issues we did not address in this Survey about which you are curious, please write to SAC. In coming editions, we will see what other quantitative information we can extract about the process.

Award Analysis By Most

CustomerMember
(SROs Only)

	Award Figures		Damage			
Broker Dealer	No. Awards	{# CW} No. Of Cust. "Wins"	Total Claims ($000's)	{TCC} Total Comp. Claims ($000"s)	{TA} Total Awards ($000's)	Total Comp. Awards ($000's)
Shearson Lehman	**816**	**461**	**301,487**	**159,519**	**40,601**	**34,732**
1/1/92...6/31/92	114	55	36,772	22,497	7,296	5,753
Merrill Lynch	**406**	**189**	**124,065**	**71,073**	**13,773**	**11,901**
1/1/92...6/31/92	46	18	7,967	5,678	1,297	1,253
PruBache	**390**	**221**	**81,368**	**45,696**	**15,060**	**12,708**
1/1/92...6/31/92	70	39	24,338	10,889	5,566	4,398
PaineWebber	**245**	**150**	**69,213**	**43,116**	**10,023**	**8,567**
1/1/92...6/31/92	33	19	17,914	16,665	2,555	2,515
DeanWitter	**241**	**116**	**36,618**	**24,646**	**6,769**	**5,253**
1/1/92...6/31/92	39	22	7,120	4,240	1,378	1,191
Smith Barney	**111**	**50**	**56,751**	**26,130**	**1,900**	**1,637**
AG Edwards	**77**	**45**	**11,830**	**6,427**	**1,997**	**1,554**
Bear Stearns	**75**	**26**	**39,539**	**19,799**	**6,110**	**4,453**
Chas Schwab	**73**	**28**	**9,856**	**4,507**	**626**	**625**
Oppenheimer & Co.	**61**	**30**	**12,783**	**5,521**	**1,034**	**1,008**
All Broker-Dealers	**4,962**	**2,759**	**1,082,486**	**637,746**	**165,676**	**136,910**
1/1/92...6/31/92	624	312	135,469	90,313	34,649	25,654

* Smart Money Magazine, December 1993, published a similar comparison of award amounts by No. of Retail RR's at each broker-dealer. SAC supplied the award amounts by broker-dealer for the Smart Money survey. Most of the comparisons coincide, but, to the extent the comparisons differ, the difference is primarily related to the inclusion of AAA Awards in the Smart Money Survey.

Active Broker-Dealers

and SmallClaims

(SROs Only)

Figures: "Related" Total Claims ($000's)	Figures: {RCC} "Related" Comp. Claims ($000's)	Percentages: Cust. "Wins" (%)	Percentages: TA / TCC (%)	Percentages: TA / RCC (%)	Small Claims Only: Cust. "Wins" (%)	Small Claims Only: TA / RCC (%)	TA / # CW ($000's)	TA* / # RR's ($000's)
251,319	**124,953**	**57**	**26**	**33**	**50**	**70**	**88.0**	**4.7**
22,625	10,215	48	32	72				
57,467	**34,862**	**47**	**19**	**40**	**44**	**56**	**72.9**	**1.2**
2,609	2,358	39	23	55				
60,628	**29,791**	**57**	**33**	**51**	**47**	**79**	**68.2**	**2.7**
19,987	8,064	56	51	69				
51,615	**32,187**	**61**	**23**	**31**	**64**	**87**	**66.8**	**2.2**
16,703	15,775	58	15	16				
24,329	**15,628**	**48**	**28**	**43**	**49**	**57**	**58.4**	**1.0**
5,669	3,033	56	33	45				
44,482	**16,476**	**45**	**7**	**12**			**38.0**	**.8**
9,510	**5,129**	**58**	**31**	**39**			**44.4**	**.5**
30,440	**12,788**	**35**	**31**	**48**			**235.0**	**11.2**
2,597	**2,250**	**38**	**14**	**28**			**22.4**	**.4**
8,115	**3,804**	**49**	**19**	**27**			**34.5**	**1.7**
753,446	**400,225**	**56**	**26**	**41**	**53**	**75**	**60.0**	**
95,025	57,204	50	38	61				

** There are more than 400,000 registered employees at about 5,400 NASD member Firms, according to The NASDAQ Handbook (NASD 1992). Since only a limited number of those Firms were involved in customer arbitrations during our survey period, an "Award cost" comparison spread across all registered employees seemed uninformative.