

TABLE OF CONTENTS

ABOUT THE AUTHOR	ix
INTRODUCTION.....	1
WHY THIS BOOK WAS WRITTEN AND FOR WHOM IT IS INTENDED	
CHAPTER ONE	5
INTERNAL CONFLICTS AMONG ARBITRATORS	
I. Misconduct by an arbitrator in his/her relationships with a co-arbitrator.....	6
A. General issues: to whom do arbitrators owe their duties?.....	6
B. Violation by a co-arbitrator of the duty of independence and impartiality.....	14
1. A co-arbitrator having an undisclosed conflict of interest.....	16
a) With one of the parties or their counsel	16
b) Regarding relations among arbitrators.....	18
2. A co-arbitrator making improper <i>ex parte</i> communications	27
a) <i>Ex parte</i> communications in general.....	28
b) Difficulty of obtaining hard evidence of <i>ex parte</i> communications by a co-arbitrator: some anecdotes	33
C. Violation by a co-arbitrator of the duty of confidentiality	35
D. Violation by a co-arbitrator of the duty of diligence	39
II. Remedies available to the innocent arbitrator in case of misconduct by a co-arbitrator	42
A. Non-traumatic remedies.....	43
B. Remedies contemplated by various Codes of Ethics: no “teeth”	44

C.	Remedies available under institutional arbitration rules: possible revocation of the offending arbitrator	51
D.	Exclusion of the offending arbitrator from the decision-making process: the truncated tribunal.....	60
E.	Remedies available under national legislations	73
III.	Conclusions on internal conflicts among arbitrators	74
CHAPTER TWO		77
THE NEED FOR CONTINUED COOPERATION AMONG ARBITRATORS		
I.	Collegiality of arbitrators despite possible differences in their respective roles	78
II.	Deliberation as a process which extends throughout the duration of the arbitration proceedings	81
A.	During the process of appointment of the President.....	84
B.	Prior to and during the Case Management Conference ..	88
C.	During the phase of submission by the parties of their briefings.....	91
D.	Before and during the course of the Evidentiary Hearing.....	96
E.	After the Evidentiary Hearing and before the Deliberation Meeting in its strict sense.....	99
F.	During the Deliberation Meeting in its strict sense	104
G.	“Split-the-baby” decisions	113
H.	During the process of drafting the award.....	116
I.	Majority decisions and dissent of one arbitrator	118
III.	Conclusions on cooperation among arbitrators.....	124
CONCLUSION		129
THE PRAYER OF THE ARBITRATOR		