

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

John K. Schels, individually, and John K. Schels, as Personal Representative of the Estate of Jeanne E. Schels, Claimants, v. PaineWebber, Inc. f/k/a J.C. Bradford & Company, Respondent

Case Number: 00-03608

Hearing Site: Charlotte, North Carolina

REPRESENTATION OF PARTIES

For John K. Schels, individually, and John K. Schels, as Personal Representative of the Estate of Jeanne E. Schels, hereinafter collectively referred to as "Claimants": Elizabeth Zeck, Esq., and Mitchell Willoughby, Willoughby & Hoefer, P.A., Columbia, South Carolina.

For PaineWebber, Inc. f/k/a J.C. Bradford & Company, hereinafter referred to as "Respondent": Amy Bard, Corporate Vice President and Associate General Counsel with Respondent, and John E. Jenkins, Corporate Vice President and Associate General Counsel with Respondent, Weehawken, New Jersey.

CASE INFORMATION

Statement of Claim filed: August 17, 2000.

Claimants' Uniform Submission Agreement signed: August 18, 2000.

Statement of Answer filed by Respondent: November 17, 2000.

Respondent's Uniform Submission Agreement signed: November 16, 2000.

CASE SUMMARY

Claimants alleged the following causes of action: 1) breach of contract; 2) unauthorized transaction; 3) breach of fiduciary duty; 4) negligence, gross negligence, recklessness and willful wanton misconduct; 5) failure to supervise; 6) fraud, constructive fraud and fraudulent concealment; 7) breach of contract accompanied by fraudulent intent; and 6) violation of state securities fraud, namely Sections 35-1-1210, 35-1-1490 and 35-1-1500 of the South Carolina Code. The causes of action relate to the sale of shares of stock in AT&T resulting in a substantial tax liability and the purchase of investments in the J.C. Bradford Growth and Income portfolio.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimants requested: 1) actual damages including but not limited to the market losses to Claimants' accounts that would not have occurred and the capital gains taxes that would not have been incurred if the accounts had been prudently and faithfully managed, and consequential damages, in the approximate amount of \$246,000.00; 2) rescission; 3) punitive damages; 4) pre-judgment interest in the amount of \$50,362.00; 5) costs in the amount of \$19,963.82; 6) attorneys' fees in the amount of \$56,032.50; and 7) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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

- 1) Respondent is liable and shall jointly pay to Claimants compensatory damages in the amount of \$75,000.00, plus pre-judgment interest in the amount of \$22,500.00. Post-judgment interest shall accrue at the statutory rate of 8.75% per South Carolina law (S.C. Code Ann. Section 34-31-20) from May 8, 2002 until the Award is paid in full.
- 2) Respondent is liable and shall jointly pay to Claimants costs in the amount of \$7,500.00 for witness fees and related costs.
- 3) Claimants' requests for punitive damages and attorneys' fees are denied.
- 4) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$250.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm, Respondent, is a party and the following fees are assessed:

Member Surcharge	= \$1,200.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$2,000.00</u>
Total Member Fees	= \$3,800.00

Adjournment Fees

The following adjournment fees are assessed:

There were no adjournment fees assessed during these proceedings.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with the Panel @ \$1,000.00/session	= \$1,000.00
Pre-hearing conference: March 1, 2001 1 session	

(2) Hearing sessions @ \$1,000.00/session	= \$2,000.00
Hearing: May 7, 2002 2 sessions	

Total Forum Fees	= \$3,000.00
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The Panel assessed the total forum fees of \$3,000.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 250.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 0.00

Respondent is charged with the following fees and costs:

Member Fees	= \$3,800.00
<u>Forum Fees</u>	<u>= \$3,000.00</u>
Total Fees	= \$6,800.00
<u>Less payments</u>	<u>= \$3,800.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$3,000.00

All balances are payable to NASD Dispute Resolution, Inc. and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

<i>Robert N. Hunter, Jr., Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>David J. Anderson</i>	-	<i>Public Arbitrator</i>
<i>William W. Marchant, Jr.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/
Robert N. Hunter, Jr., Esq.
Chair, Public Arbitrator

Signature Date

/s/

David J. Anderson
Public Arbitrator

Signature Date

/s/
 William W. Marchant, Jr.
 Industry/Non-Public Arbitrator

Signature Date

June 20, 2002
Date of Service

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<i>David J. Anderson</i>	-	<i>Public Arbitrator</i>
<i>William W. Marchant, Jr.</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Robert N. Hunter, Jr.

Robert N. Hunter, Jr., Esq.
Chair, Public Arbitrator

6-11-2002
Signature Date

David J. Anderson
Public Arbitrator

Signature Date

William W. Marchant, Jr.
Industry/Non-Public Arbitrator

Signature Date

Date of Service

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Robert N. Hunter, Jr., Esq.	-	Public Arbitrator, Presiding Chair
David J. Anderson	-	Public Arbitrator
William W. Marchant, Jr.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Robert N. Hunter, Jr., Esq.
Chair, Public Arbitrator

Signature Date



David J. Anderson
Public Arbitrator

06/19/02
Signature Date

William W. Marchant, Jr.
Industry/Non-Public Arbitrator

Signature Date

Date of Service

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Robert N. Hunter, Jr., Esq.	-	Public Arbitrator, Presiding Chair
David J. Anderson	-	Public Arbitrator
William W. Marchant, Jr.	-	Non-Public Arbitrator

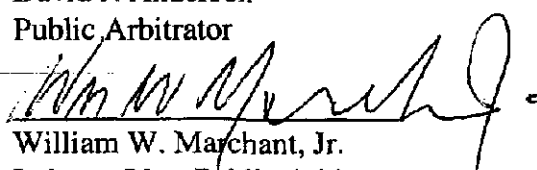
Concurring Arbitrators' Signatures

Robert N. Hunter, Jr., Esq.
Chair, Public Arbitrator

Signature Date

David J. Anderson
Public Arbitrator

Signature Date


William W. Marchant, Jr.
Industry/Non-Public Arbitrator

6-12-02
Signature Date

Date of Service