

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Michael Yee, Wai Chit Tam, Claimants
Teresa Yee Chau & Christina Yee

vs.

Drexel Burnham Lambert, Inc Respondents
PaineWebber, Inc.
Lance Cummings

CASE NO. 88-02445

SUMMARY OF ISSUES

This case was filed on August 2, 1988. Claimants alleged that Respondents violated Sections 10b and 10b5 of the Securities Exchange Act of 1934 and Section 12-2 of the Securities Exchange Act of 1933, churned their accounts, invested their funds in unsuitable common stocks, corporate bonds and options, engaged in unauthorized trading, breached their fiduciary duties, were negligent, acted to defraud Claimants, negligently misrepresented the status of Claimants' accounts, and that corporate Respondents failed to supervise the registered representative. The corporate Respondents denied all allegations and asserted that Claimants represented themselves as sophisticated investors seeking speculative investments who gave limited discretionary authority over their accounts to Respondent registered representative as well as to Claimant Michael Yee. Corporate Respondents further asserted that Claimants' losses are attributable only to adverse market conditions.

DAMAGES AND RELIEF REQUESTED

Claimants requested damages of \$730,000.00 plus interest, costs, attorneys' fees and punitive damages of \$750,000.00. The corporate Respondents requested dismissal of all claims and an award of costs.

After the first hearing session, during which Claimants settled their claims against Drexel Burnham Lambert, Claimants amended their request for damages to \$319,498.00, plus interest at 10% (from June 7, 1987 to December 1, 1989, and from date of an award to payment), costs and \$1 million in punitive damages.

DAMAGES AND RELIEF AWARDED

On September 11, 12, and November 6, 7, and 14, 1989, in San Francisco, California, the undersigned arbitrators heard the controversy in ten (10) sessions between the parties as set forth in submissions to arbitration signed by Claimants as follows: Michael Yee, July 5, 1988; Wai Chit Tam, July 15, 1988; Teresa Yee Chau, July 6, 1988; Christina Yee, July 13, 1988; and by Respondent PaineWebber on October 20, 1988. Respondent

Drexel Burnham Lambert did not file a submission agreement, but verbally submitted to the jurisdiction of the panel at the first hearing session. Respondent Lance Cummings did not file a submission agreement. The arbitration panel, having considered the pleadings, the testimony, the evidence presented at the hearing, and the post-hearing submissions, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents PaineWebber and Lance Cummings are jointly and severally liable for and shall pay the principal sum of \$42,500.00 to each of Claimants Wai Chit Tam, Teresa Yee Chau and Christina Yee (principal total: \$127,500.00), plus interest in the amount of \$5,000.00 to each of these Claimants (interest total: \$15,000.00).

2. Respondent Lance Cummings is solely liable for and shall pay the principal sum of \$191,987.00, plus interest in the amount of \$24,000.00, to all four Claimants jointly.

3. The claim for punitive damages is denied.

4. Respondents PaineWebber and Lance Cummings are jointly and severally assessed forum fees in the amount of \$9,000.00, payable to the NASD through its representative.

5. The parties shall each bear their respective costs including attorneys' fees.

6. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure, the NASD shall retain the \$1,000.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

At the first hearing session on September 11, 1989, Claimants and Respondent Drexel Burnham Lambert, Inc. reached a settlement. Drexel Burnham Lambert was then dismissed as a Respondent. Respondent Lance Cummings was properly served with the claim and subsequent notices of hearing dates and location, but did not file an answer, a submission agreement, nor did he appear at the hearing. The panel of arbitrators ruled that Respondent Cummings was subject to NASD jurisdiction.

DATE SERVED: 12/16/89

ARBITRATORS CONCURRING


Marcus E. Gracia, Jr.

Allan Blau

Edward H. Sanborn, IV