

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Alan W. Kapilow

Claimant

vs.

PaineWebber, Inc., Joel Schwartz
and Robert Donato

Respondents

AWARD

CASE NO. 88-02678

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on August 23, 1988. Claimant alleged that Respondents recommended unsuitable investments in equity and index options and misrepresented the risks associated with such, and that Respondents failed to adequately supervise the broker servicing the account.

Respondents denied the allegations and maintained that Claimant was a sophisticated and experienced investor who listed "speculation" as his investment objective. Respondents further maintained that Claimant authorized every transaction in his account and engaged in investment strategies with full knowledge of the risks he was assuming.

DAMAGES AND RELIEF REQUESTED

Claimant requested actual damages in the amount of \$350,000.00, punitive damages in an amount equal to the actual damages, interest on \$350,000.00 from June, 1986, and attorneys' fees and costs.

Respondents requested dismissal of the claim and costs.

DAMAGES AND RELIEF AWARDED

On January 11 and 12, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on August 8, 1988 and by Respondent PaineWebber, Inc. on September 16, 1988, Respondent Joel Schwartz on October 7, 1988 and by Respondent Robert Donato on October 6, 1988. The hearing was held in Santa Monica, California and lasted four sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented