

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

STEVEN F. & SUZANNE B. CALDWELL,  
JEFFREY J. F. EBY., BRIAN E. PECON,  
BENJAMIN T. PO., M.D.,  
CHARLES A. RICHARDS,  
PERVIE B. SIMPSON, JR. AND  
JOHN G. TUCKER

Claimants

and

PAINWEBBER, INC.

Respondent

CASE NO. 88-03407  
88-03414  
88-03405  
88-03392  
88-03391  
88-03388  
88-03383

CASE SUMMARY

In claims filed with the NASD, Steven F. & Suzanne B. Caldwell, Jeffrey J. F. Eby, Brian E. Pecon, Benjamin T. Po, M.D., Charles A. Richards, Pervie B. Simpson and John G. Tucker (collectively referred to herein as "Claimants") alleged that: Respondent PaineWebber, Inc. ("Respondent") used unregistered sales literature or advertising and fraudulent devices in its solicitation of sales of units in Trexco Drilling Partners, Ltd. and that Respondent failed to exercise due diligence or perform a reasonable investigation of or failed to disclose the following:

a) that the corporate general partner of Trexco, Trans-continental Exploration Company, Inc., had guaranteed in excess of \$50,000,000.00 in loans made to and for its affiliated drilling companies for drilling equipment purchases;

b) that a severe recession in the drilling industry had commenced in 1981, thereby severely limiting the use of the aforementioned drilling equipment purchases and the ability to pay for them;

c) that the aforementioned recession and the economic problems and risks of drilling companies generally was the subject of numerous Wall Street Journal, New York Times and other business publications from 1981 through the date of the prospectus, November 1, 1982;

d) that the financial condition of the corporate general partner, its affiliates and Trexco in 1981 and 1982, when taken as a whole, was already in a bankrupt condition or on the verge of bankruptcy; and

e) that the financial condition of the general partner and its affiliates was inflated on the basis that they had not devalued their reserves at a time when the custom and generally accepted standard of the drilling industry was to devalue reserves.

In its Answers filed with the NASD, Respondent stated that the risky nature of oil and gas investments were disclosed throughout the documents prepared by Respondent; that Respondent did not make any untrue or fraudulent statements concerning Trexco Drilling Partners, Ltd.; that sales literatures reflected the relevant factors in the offering; that Respondent had the prospects involved in the partnership screened by two independent consultants; and that Respondent performed the appropriate due diligence. Respondent further stated that the Claimants were fully aware of the potential risks and rewards associated with an investment in an oil and gas program and that it adequately investigated the prospects involved in the limited partnership and made truthful disclosures.

Respondents also raised the affirmative defenses that the claims are barred by the Statute of Limitations; are not eligible for arbitration under Section 15 of the NASD Code of Arbitration Procedure; and that Claimants are barred by the doctrines of waiver, ratification and affirmance.

#### RELIEF REQUESTED

John G. Tucker requested an award in the total amount of \$176,572.95 which includes loss of investment in the amount of \$47,612.50, loss of investment use and/or interest through September 30, 1988 in the amount of \$34,817.22, punitive damages in the amount of \$50,000.00, attorneys fees in the amount of \$44,143.23 and all costs of arbitration.

Each other claimant requested an award in the total amount of \$285,145.97 which includes loss of investment in the amount of \$94,225.00, loss of investment use and/or interest through September 30, 1988 in the amount of \$69,634.48, punitive damages in the amount of \$50,000.00, attorneys fees in the amount of \$71,286.49, and all costs of arbitration.

Respondent requested that each Statement of Claim be dismissed and costs of these proceedings be assessed against Claimants.

AWARD

On Tuesday, April 10, 1990, Wednesday, April 11, 1990, Monday, April 30, 1990 and Tuesday, May 1, 1990 during a hearing lasting a total of nine (9) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on May 31, 1988 by Pervie Simpson, on April 30, 1988 by Jeffrey J. F. Eby, on April 18, 1988 by Steven F. and Suzanne B. Caldwell, on April 18, 1988 by Benjamin T. Po, M.D., on April 18, 1988 by Charles A. Richards, on October 28, 1988 by Brian E. Pecon, on April 26, 1988 by John G. Tucker and on February 3, 1989 by Joel Davidson on behalf of PaineWebber, Inc.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent PaineWebber, Inc. shall be and hereby is liable for and shall pay to Claimants Steven F. and Suzanne B. Caldwell the sum of \$18,000.00;
2. Respondent PaineWebber, Inc. shall be and hereby is liable for and shall pay to Claimant Jeffrey J. F. Eby the sum of \$18,000.00;
3. Respondent PaineWebber, Inc. shall be and hereby is liable for and shall pay to Claimant Brian E. Pecon the sum of \$18,000.00;
4. Respondent PaineWebber, Inc. shall be and hereby is liable for and shall pay to Claimant Benjamin T. Po, M.D. the sum of \$18,000.00;
5. Respondent PaineWebber, Inc. shall be and hereby is liable for and shall pay to Claimant Charles A. Richards the sum of \$18,000.00;
6. Respondent PaineWebber, Inc. shall be and hereby is liable for and shall pay to Claimant Pervie B. Simpson the sum of \$18,000.00;
7. Respondent PaineWebber, Inc. shall be and hereby is liable for and shall pay to Claimant John G. Tucker the sum of \$12,000.00;
8. No interest is awarded on the above stated sums;
9. Claimants requests for punitive damages are hereby denied; and

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10. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the \$750.00 filing fee previously deposited with the NASD on behalf of the Claimants and PaineWebber, Inc. is assessed and shall pay to the NASD as forum fees, the sum of \$750.00.

By the Panel

Dated: 6-7-90 /S/ Dean J. Capp, Esq.  
Presiding Chair

Dated: \_\_\_\_\_ /S/ Robert E. Warner

Dated: 6-5-90 /S/ Kathy R. Holler

Date Served: 6-12-90