

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

NATHAN BRODIE AND BRODIES, INC.

Claimants

and

PAINWEBBER INCORPORATED AND SCOTT SMITH

Respondents

CASE NO. 89-00008

CASE SUMMARY

In a claim filed with the NASD on January 6, 1989, Claimants Nathan Brodie and Brodies, Inc. ("Claimants") alleged that Respondents PaineWebber, Incorporated and Scott Smith ("Respondents") made material misrepresentations, omissions to state material facts in connection with the trading in the accounts of Claimants; that Respondents engaged in excessive trading in stocks and options in the accounts of Claimants; that Respondents made unsuitable recommendations; and that Respondents violated 18 U.S.C. Section 1961 et seq. ("RICO").

In their joint Statement of Answer filed with the NASD on March 23, 1989, Respondents denied the allegations that they engaged in excessive trading, unsuitability, breach of contract, negligence, and breach of fiduciary duty.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount estimated at \$400,000.00; liable damages pursuant to 18 U.S.C. 1964(c); costs and reasonable attorneys' fees.

Respondents requested that the Statement of Claim be dismissed in its entirety and that costs be assessed against Claimants.

AWARD

On Wednesday, February 21, 1990, Thursday, March 8, 1990 and Friday, March 9, 1990 in Detroit, Michigan during a hearing lasting six sessions in Detroit, Michigan, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on January 3, 1989 by Claimant Nathan Brodie, individually and on behalf of Brodies, Inc., on March 21, 1989 by John A. Borgese on behalf of Respondent PaineWebber, Incorporated and on March 27, 1989 by Respondent Scott Smith.

OTHER MATTERS

During the hearing, the Claimants advised that Nathan Brodie died on August 28, 1989. Therefore, any award would be attributable to the estate of Nathan Brodie and/or Brodies, 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. PaineWebber, Inc. is liable and shall pay as damages to Brodie, Inc. the sum of \$83,624.00 (Eighty-Three Thousand Six Hundred Twenty-Four Dollars and No Cents).

2. PaineWebber, Inc. is liable and shall pay as damages to the estate of Nathan Brodie the sum of \$11,028.00 (Eleven Thousand Twenty-Eight and No Cents).

3. Scott Smith is liable and shall pay as damages to Brodies, Inc. the sum of \$4,642.73 (Four Thousand Six Hundred Forty-Two and Seventy-Three Cents).

4. Scott Smith is liable and shall pay as damages to the estate of Nathan Brodie the sum of \$705.27 (Seven Hundred Five and Twenty-Seven Cents).

5. Pursuant to Section 43(b) of the Code of Arbitration Procedure, The National Association of securities Dealers, Inc. shall retain as forum fees, the \$1,000.00 filing fee previously deposited with the NASD by the Claimants. Claimants shall pay to the NASD the sum of \$1,000.00 and Respondent PaineWebber, Inc. shall pay to the NASD the sum of \$2,000.00 as additional forum fees.

By the Panel

Dated: 03/09/90

/S/ Kerry Crenshaw
Presiding Chair

Dated: 03/09/90

/S/ Levi T. Gardner

Dated: 03/09/90

/S/ Robert A. Vogler

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