

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between: :
: :
IRENE ROBBINS AND BERT SHEPHERD, TRUSTEES :
FOR THE DAVIS ROBBINS FAMILY TRUST AND THE :
DAVIS ROBBINS MARITAL TRUST :
: :
: **AWARD**
CLAIMANTS : **#89-01737**
: :
V. : :
: :
PAINE WEBBER, INC., JOHN DAY, JERRY PAYNE, :
ARTHUR JAMES HUFF, BRUCE A. BURSEY, THOMAS :
P. HART, W. DAVID EAST AND DAVID L. ARNOLD :
: :
RESPONDENTS :

CASE SUMMARY

The Statement of Claim was filed on June 13, 1989.

Irene Robbins and Bert Shepherd as trustees of the Claimant, alleged that through a series of fraudulent options trades during December, 1987 through March, 1988, Respondents caused the Trustees substantial losses. Claimants claimed that the trades were unauthorized; excessive in amount and frequency; were in securities that were unsuitable for Trustees' accounts and were made with unauthorized borrowings in trustees' names from PaineWebber, Inc.

Respondents acknowledged that the accounts at issue suffered significant and unfortunate losses during the period from December 1987 through February 1988 but denied all allegations of wrong doing with respect to Claimants' accounts. Respondents maintained that Claimants knowingly authorized and encouraged Respondent, John Day to handle the accounts in a discretionary manner and that all trades in Claimants' accounts were suitable. Respondents further denied that the transactions in Claimants' accounts were excessive or that they were made with unauthorized borrowings from PaineWebber, Inc.

RELIEF REQUESTED

Claimants requested an award in the amount of: \$1,500,000.00 in compensatory damages, interest on \$1,500,000.00 from the date of the Claim to the date of payment of the award; \$10,000,000.00 in punitive damages, Attorneys' fees, Interest and Costs under the Alabama Securities Act for an amount equal to compensatory damages, plus costs and attorneys' fees and interest, under Sec. 8-6-19 of the Alabama Securities Act;

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Treble Damages or, in the alternative, for an amount equal to three times actual or compensatory damages, plus attorneys' fees and costs under RICO, 18 USC. Sec. 1964(c).7. Claimants also requested an award to the Trustees personally for compensatory and punitive damages-emotional Pain and suffering in the amount of \$1,000,000.00.

Respondents requested dismissal of all Claims including Claimants' Claims for Punitive Damages and Treble Damages under RICO.

AWARD

On July 23,24 and 25, 1990, October 15,16 and 17, 1990 and December 5, 6, 7, 18, 19 and 20, 1990, the undersigned arbitrators heard the controversy between the Parties as set forth in submissions to arbitration signed by the Claimants Irene Robbins and Bert Shepherd on July 12, 1989 and by Respondents, PaineWebber, Inc. on August 23, 1989, John Day on August 31, 1989, Jerry W. Payne on August 23, 1989, Arthur James Huff on August 31, 1989, Bruce A. Bursey on August 31, 1989, Thomas P. Hart, September 13, 1989 and W. David East on August 31, 1989. The hearing was held in Atlanta, Georgia and consisted of twenty two (22) sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Jerry Payne, Arthur James Huff, Bruce A. Bursey, Thomas P. Hart, W. David East and David L. Arnold are dismissed with prejudice from this action on the Panel's own motion;
2. Claimants' Claim for damages for emotional pain and suffering are dismissed with prejudice from this action on the Panel's own motion;
3. Respondents, PaineWebber, Inc. and John Day are jointly and severally liable to pay to Claimants, Irene Robbins and Bert Shepherd, Trustees, the sum of Three Hundred and Twenty Five Thousand Dollars and no Cents (\$325,000.00) exclusive of interest;
4. Claimants' Claim for punitive damages shall be and hereby is denied;
5. Claimants' Claim for treble damages under RICO shall be and hereby is denied;

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6. The Parties shall each bear their respective costs, including attorneys' fees;

7. Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$1,000.00 filing fee previously deposited by the Claimants;

8. Respondents, PaineWebber, Inc. and John Day are jointly and severally assessed forum fees in the amount of \$21,000.00 payable to the NASD, Inc. through its staff administrator in accordance with Section 43 of the Code of Arbitration Procedure;

9. Respondents, PaineWebber, Inc. and John Day are Jointly and severally liable to pay to Claimants, Irene Robbins and Bert Shepherd an additional sum of \$1,000.00 previously deposited by Claimants and retained by the NASD, Inc., in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATORS CONCURRING

/s/

A. Keith Logue
(Public-Chairman)

/s/

Daniel E. Gulden
(Public-Panelist)

/s/

Thomas M. Johnson, Jr.
(Industry-Panelist)

DATED BY NASD
JANUARY 10, 1991