

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between )

Name of Claimant(s) )

Ranieri L. Palleschi )

Case No. 89-01973

Name of Respondent(s) )

Legg Mason Wood Walker, Incorporated )  
Robert D. Slingluff )

Heard before the Arbitrator:

Joseph L. Bernstein, Esq.

CASE SUMMARY

This claim was filed with the NASD, Inc. on July 11, 1989. The hearing was conducted in Fort Lauderdale, Florida on April 5 (pre-hearing conference), November 20, and December 18, 1990, with a total of five (5) sessions.

Claimant, Ranieri Palleschi ("Palleschi"), alleged that he was retired and derived substantially all his income through conservative investments; that Respondents, Legg Mason Wood Walker, Inc. ("Legg Mason") and Robert D. Slingluff ("Slingluff"), made misrepresentations of material facts and omitted to state material facts; made unauthorized transactions in equity securities (Emerald Mortgage Investments) in Claimant's IRA account; recommended transactions in unsuitable securities; failed to observe a stop-loss order entered by Claimant; that Respondents' actions constituted breach of contract, negligence, fraud, breach of fiduciary duties, and violations of Sections 517.301 and 211, Florida Statutes and Section 12(2) of the 1933 Securities Act.

Respondents denied all allegations of wrongdoing and alleged that Claimant was an active real estate agent; was a sophisticated investor who made his own investment decision to purchase Emerald Mortgage after receipt of a prospectus; that all recommendations were suitable for Claimant; that Claimant ratified the reduction of the stop-order and cancelled that order; and, that any loss suffered by Claimant was incurred months after Claimant transferred his account to Merrill Lynch and was the result of his own actions.

RELIEF REQUESTED

Claimant requested damages in the amount of \$14,250.00; interest; punitive damages; rescission; costs, and attorney's fees.

Respondents requested dismissal.

#### AWARD

On April 5, November 20 and December 18, 1990, the arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on July 6, 1989, and by Respondents Legg Mason on October 2, 1989 and Slingluff on October 3, 1989. The arbitrator, 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. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD, Inc.
2. Respondent, Slingluff, is found not liable to the Claimant and, therefore, all claims against him are hereby dismissed.
3. Respondent, Legg Mason, is found liable and shall pay to Claimant the amount of Five Thousand Four Hundred Thirty Seven and 50/100 (\$5,437.50) Dollars plus interest at the legal rate of 12% per annum from April 15, 1989 to the date of the Award in the amount of One Thousand Ninety Seven and 27/100 (\$1,097.27) Dollars, for a total due to the Claimant of Six Thousand Five Hundred Thirty Four and 77/100 (\$6,534.77) Dollars.
4. Claimant's requests for punitive damages and attorney's fees are denied.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the Claimant is hereby assessed forum fees in the amount of Fifteen Hundred and 00/100 (\$1,500.00) Dollars for which the NASD will retain Seven Hundred Fifty and 00/100 (\$750.00) previously deposited in partial satisfaction thereof. Respondent, Legg Mason, is hereby assessed forum fees in the amount of Two Thousand Two Hundred Fifty and 00/100 (\$2,250.00) Dollars payable to the National Association of Securities Dealers, Inc.
6. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

#### OTHER ISSUES

None

#### ARBITRATOR CONCURRING

Joseph L. Bernstein, Esq.

Dated this 20th day of December 1990.