

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

-----  
IN THE MATTER OF THE ARBITRATION BETWEEN :

Evelyn Hetzler :

Claimant :

vs. :

PaineWebber, Inc. :

Respondent :

Case #89-02445

AWARD

-----  
CASE SUMMARY

Claimant Evelyn Hetzler alleged that Respondent PaineWebber, Inc., acting through an employee, deliberately and fraudulently mishandled the Claimant's account by making unsuitable recommendations, churning the Claimant's account, and making various misrepresentations concerning the status of Claimant's account. Further, Claimant alleged that Respondent failed to properly supervise its personnel and breached its fiduciary duties to the Claimant.

Respondent PaineWebber, Inc. contended it always acted properly and in good faith with respect to the Claimant's account. Respondent contended that Claimant's desire for a higher rate of return than was available in U.S. Government Instruments caused her to change her strategy and begin a more aggressive policy of investing in other securities. Respondent also maintained that Claimant was an intelligent investor who authorized all transactions with full knowledge of the risks involved, and that losses sustained in the Claimant's account were the result of market risk, and not due to the actions of the Respondent or its representatives.

RELIEF REQUESTED


Claimant Evelyn Hetzler requested actual damages of \$225,000.00, plus punitive damages, costs, interests, and attorney's fees. Respondent PaineWebber requested dismissal of all claims made against it, plus costs.


AWARD

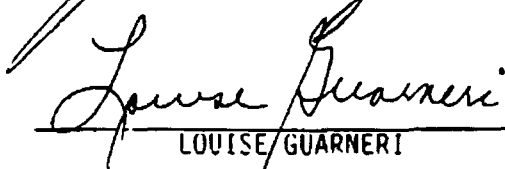
On May 9 and 21, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Evelyn Hetzler on August 28, 1989, and by Respondent, PaineWebber, Inc. on November 8, 1989. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. in New York City, NY and consisted of four (4) hearing sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has unanimously determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent PaineWebber, Inc. be and hereby is liable and shall pay to the Claimant Evelyn Hetzler the sum of Eighty Five Thousand Dollars and No Cents (\$85,000.00), inclusive of interest.
2. The parties shall each bear their respective costs including attorney's fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant and the Claimant be and hereby is liable and shall pay to the NASD the sum of Seven Hundred Fifty Dollars and No Cents (\$750.00) and the Respondent be and hereby is liable and shall pay to the NASD the sum of One Thousand Five Hundred Dollars and No Cents (\$1,500.00), as costs of the four (4) hearing sessions conducted in this matter.

CONCURRING ARBITRATORS

  
\_\_\_\_\_  
DAVID E. ROBBINS

  
\_\_\_\_\_  
JAMES B. BOSKEY

  
\_\_\_\_\_  
LOUISE GUARNERI

DATED: June 8, 1990

STATE OF NY

COUNTY OF NY

On this 29th day of May, 1990, before me personally appeared **DAVID E. ROBBINS** to me known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same

Pamela Cohen

**PAMELA COHEN**  
Notary Public, State of New York  
No. 41 4922709  
Qualified in New York County  
Commission Expires March 14, 1992

STATE OF New Jersey

COUNTY OF ESSEX

On this 5th day of June, 1990, before me personally appeared **JAMES B. BOSKEY** to me known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same

Harvey Skow  
**HARVEY SKOW**

AN ATTORNEY AT LAW OF New Jersey  
AS NOTARY Public

STATE OF NY

COUNTY OF NY

On this 1st day of June, 1990, before me personally appeared **LOUISE GUARNERI** to me known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same

Gail E. Plaganius

**GAIL E. PLAGANIUS**  
Notary Public, State of New York  
No. 43-4777620  
Qualified in Richmond County  
Certificate Filed in New York County  
Commission Expires March 30, 1991