

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Allan Wertheim
Diane Wertheim

Claimants

vs.

PaineWebber, Inc.
Paul Katz

Respondents

AWARD

NASD NO. 89-02709

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on September 28, 1989. Claimants alleged lack of suitability, breach of fiduciary duty and misrepresentation in the purchase of a government bond trust managed by Putnam Investor Services and PaineWebber's Insured Mortgage Partners I.

Respondents denied all substantive allegations of the claim and asserted the following affirmative defenses: 1) the claim fails to state "claims" upon which relief can be granted; 2) estoppel; 3) claimants ratified, approved, accepted, acquiesced and confirmed all acts complained of; 4) assumption of risk; and 5) failure to mitigate damages.

DAMAGES AND RELIEF REQUESTED

1. Return of the original investment (\$150,315.00) in the Mortgage Partners product, plus interest at the highest legal rate;

2. Reimbursement for Putnam fund losses in the amount of \$11,671.00;

3. Punitive damages.

DAMAGES AND RELIEF AWARDED

On November 15 and 16, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on September 9, 1989 and by Respondent PaineWebber on December 18, 1989. Respondent Katz did not file a submission agreement but filed an Answer and is subject to the jurisdiction of the NASD in accordance with Section 8 of the NASD Code of Arbitration Procedure. The hearing was conducted in Los Angeles, California and lasted four 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:

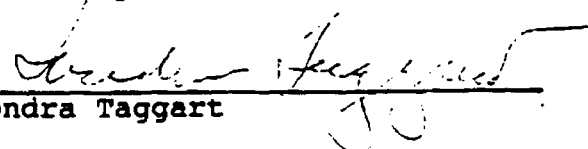
1. Respondent PaineWebber, Inc., only is liable for and shall pay to Claimants the sum of \$11,000.00
2. The claim for punitive damages is dismissed.
3. All claims against respondent Katz are dismissed.
4. The parties shall each bear their respective costs including attorneys fees.
5. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$750.00 filing fee previously deposited by the Claimants as an assessment of forum fees by the arbitrators. In addition, Claimants are also assessed fees of \$750.00, representing charges for forum fees payable to the NASD, Inc.

ARBITRATORS CONCURRING

Robert G. Bailey

Bert Levy

DATE SERVED: 12/19/90



Sondra Taggart