

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Scher Defined Benefit Pension Plan

89-03253

Name of Respondent(s)

Advest, Inc.

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CASE SUMMARY

Claimant alleged that the Respondent, who maintained and managed an account for the Pension Plan, acted negligently and recklessly in violation of its fiduciary duties by engaging in high risk call option purchases and transactions that were unsuitable for the account and resulted in losses. Respondent denied all allegations made by the Claimant regarding the account and asserted that the Respondent fulfilled all responsibilities imposed upon it.

RELIEF REQUESTED

Claimant requested compensatory damages of \$75,000.00 plus interest from the date of loss to the date of the award along with unspecified punitive damages and attorneys fees. Respondent requested that the claim of the Claimant be dismissed.

AWARD

On September 19, 1990 and October 3, 1990 in New York City, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant Scher Defined

Benefit Pension Plan on November 14, 1989 and not signed by the Respondent Advest, Inc. as required by Sections 12 and 25 of the Code of Arbitration Procedure. The initial Statement of Claim was filed on November 17, 1989. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of all issues submitted for determination as follows:

(1) After application by the Respondent for summary judgement at the hearing on October 3, 1990, the claims of the Claimant Scher Benefit Pension Plan against Respondent Advest, Inc. were dismissed in their entirety.

(2) The parties shall each bear their respective costs, including attorneys fees.

(3) Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant as costs of the four hearing sessions conducted in this matter.

CONCURRING ARBITRATORS

/s/ \_\_\_\_\_  
Howard Mandell, Esq.

/s/ \_\_\_\_\_  
Lydia Bishop

/s/ \_\_\_\_\_  
Barbara Glenns

Dated: November 21, 1990