



N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Phyllis Price

90-00114

Name of Respondent(s)

Rotan Mosle Inc.
John Nadleman

CASE SUMMARY

In a claim filed with the NASD on or about January 8, 1990 Phyllis Price ("Claimant") alleged that John Nadleman and Rotan Mosle Inc. (collectively "Respondents"): 1) engaged in a scheme to induce borrowing by misrepresenting and failing to disclose material information concerning the need for a margin account, and the need for debts thereafter incurred under such an account; 2) engaged in excessive trading and inappropriate management of Claimant's account for the purpose of generating excessive commissions; 3) knowingly recommended, and effected, the purchase of securities not suitable to Claimant's needs or financial situation; 4) made purchase of certain securities without authorization; 5) breached their fiduciary duty to the Claimant; and, 6) failed to comply with industry standards and the internal rules of Rotan Mosle, Inc. governing the methods of financing customer investments, and the manner in which the investments were purchased and sold.

In an answer filed with the NASD, Respondents denied all allegations of wrongdoing contained in the Statement of Claim and affirmatively assert that: 1) the Statement of Claim fails to state a cause of action upon which relief can be granted; 2) Respondents acted in compliance with all applicable rules and regulations and acted in good faith and did not directly induce the alleged violation of the law; 3) the Claimant is estopped by her conduct from maintaining this action against Respondents; 4) Claimant's barred by her assumption and acceptance of risk of losses; 5) Claimant failed to mitigate her damages; 6) Claimant through her actions waived her right to maintain this action; 7) Claimant knew and understood the risks associated with the investments in her account; and, 8) the Claimant's claims are barred by the doctrine of ratification.

NASD

NATIONAL ASSOCIATION
OF SECURITIES DEALERS
CEIV

DISTRICT 1

DEC 24 1990

National Association of
Securities Dealers, Inc.
Suite 1680
Three First National Plaza
Chicago, Illinois 60602
(312)

RELIEF REQUESTED

Claimant requested damages in the amount of \$29,469.48 and punitive damages in the amount of \$20,000.00.

ARBITRATION-01

AWARD

On December 7, 1990 in Dallas, Texas during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on December 27, 1989 by Claimant Phyllis Price and on April 2, 1990 by Romaine L. Gardner on behalf of Respondent PaineWebber Incorporated.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided 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 originals remain on file with the NASD, Inc.
2. Respondents Rotan Mosie Inc. and John Nadleman are hereby liable, jointly and severally, and shall pay to Claimant damages in the amount of Twenty Three Thousand and 00/100 (\$23,000.00) Dollars.
3. Claimant's request for punitive damages is hereby denied in its entirety.
4. There is no award of attorneys' fees.

NASD

District No. 8

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Suite 1680
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(312) 236-7222

5. Pursuant to Section 43(c) of Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the hearing session deposit in the amount of \$400.00 previously deposited with the NASD by the Claimant. The hearing session deposit in the amount of \$400.00 is hereby assessed against the Respondents Rotan Mosle Inc. and John Nadleman jointly and severally.

Dated: 12/18/90

/s/ Donald Wright
Donald Wright
Presiding Arbitrator

Dated: _____

/s/ _____
Gordon W. Hall, Esq.

Dated: _____

/s/ _____
W. Robert Wigley, Jr., Esq.

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Dated: _____ /S/ _____
Donald Wright
Presiding Arbitrator

Dated: 12-17-90 /S/ Gordon W. Hall
Gordon W. Hall, Esq.

Dated: _____ /S/ _____
W. Robert Wigley, Jr., Esq.

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Dated: _____ /S/ _____
Donald Wright
Presiding Arbitrator

Dated: _____ /S/ _____
Gordon W. Hall, Esq.

Dated: 12/17/90 /S/ W. Robert Wigley, Jr.
W. Robert Wigley, Jr., Esq.