

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Robert & Cynthia Webb

90-00419

Name of Respondents

PaineWebber, Inc.  
Anthony Iascone

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Heard before:

Philip Marshall, Esq.  
James G. Parker  
William Richardson

Public Arbitrator  
Public Arbitrator  
Industry Arbitrator

REPRESENTATION

Claimants were represented by David C. Fielding, Esq. of Saperston & Day, P.C. Respondents were represented by Peter Byer, Esq., in-house counsel at PaineWebber, Inc.

CASE SUMMARY

This claim was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on February 8, 1990. The Claimants, Robert T. and Cynthia A. Webb ("Webbs"), alleged that the Respondent Anthony Iascone ("Iascone"), and employee of Respondent PaineWebber, Inc. ("PaineWebber"), had assembled an imprudent portfolio for the Webbs which contained substantially more risk than was reasonable under the circumstances, and that he caused an excessively large position of one security, Genetech, Inc., to accumulate in the Webb's account through the excessive use of margin debt. The Webbs further alleged that Iascone failed to disclose to them the risks inherent in such trading, and that he failed to properly monitor their account in that he was not available to the Webbs during critical times in the portfolio.

In a Statement of Answer filed with the NASD on May 18, 1990, PaineWebber and Iascone contended that the Webbs were knowledgeable and relatively sophisticated investors who, of their own volition and with full knowledge of the risks involved, determined to engage in aggressive and speculative trading in order to generate substantial amounts of income, and that the losses sustained by the Webbs were due to market forces and not improper conduct on the part of the Respondents.

RELIEF REQUESTED

Claimants requested actual damages of approximately \$150,000.00 together with commissions and margin interest, plus interest, costs and attorneys' fees. Respondents requested dismissal of all claims made against them, plus costs.

AWARD

On June 20 and 21, 1991, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants, Robert T. and Cynthia A. Webb, on January 31, 1990, by the Respondent PaineWebber, Inc. on May 14, 1990, and by Respondent Anthony Iascone June 3, 1990. The hearing was conducted in Buffalo, NY and consisted of four (4) hearing sessions. After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Respondent PaineWebber, Inc. be and hereby is liable and shall pay to the Claimants, Robert T. and Cynthia A. Webb, the total sum of Twenty Five Thousand Dollars And No Cents (\$25,000.00), inclusive of interest. Respondent Anthony Iascone shall be jointly and severally liable with PaineWebber, Inc. for Ten Thousand Dollars And No Cents (\$10,000.00) of that amount.
2. The parties each shall bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$750.00 previously deposited by the Claimants. In addition, the Claimants be and hereby are jointly and severally liable and shall pay to the NASD the sum of Nine Hundred Fifty Dollars And No Cents (\$950.00), and the Respondents PaineWebber, Inc. and Anthony Iascone be and hereby are jointly and severally liable and shall pay to the NASD the sum of One Thousand Five Hundred Dollars And No Cents (\$1,500.00), as the costs of the four (4) hearing sessions conducted in this matter.

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CONCURRING ARBITRATORS

Philip M. Marshall  
Philip Marshall

James G. Parker

William Richardson

Date of Decision: 6/27/91

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CONCURRING ARBITRATORS

Philip Marshall

James G. Parker  
James G. Parker

William Richardson

State of NY  
County of Genesee

D.R. July 1, 1991

Maureen Misi

- MAUREEN MISI  
Notary Public, State of New York  
Qualified in Genesee County  
My Commission Expires May 31, 1993

Date of Decision: \_\_\_\_\_

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CONCURRING ARBITRATORS

Philip Marshall

James G. Parker

William Richardson  
William Richardson

Date of Decision: Jan 26, 1991