

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

James E. Ogram & Gloria S. Ogram

90-00858

Name of Respondent(s)PaineWebber, Jackson & Curtis, Inc.
Richard M. Otterson

REPRESENTATION

For Claimants James E. and Gloria S. Ogram ("Ograms"): Eugene R. Smith, a sole practitioner.

For Respondents PaineWebber, Jackson & Curtis, Inc. ("PW") and Richard M. Otterson ("Otterson"): Edward G. Werner, of PaineWebber, Jackson & Curtis, Inc.

CASE INFORMATION

Statement of Claim filed: March 14, 1990.

Claimants' Submission Agreement signed on: March 14, 1990.

Joint Statement of Answer filed by Respondent, PW and Otterson filed: June 12, 1990.

Respondent, PW's Submission Agreement signed on: June 21, 1990.

Respondent, Otterson did not sign a Submission Agreement as required pursuant to Section 8 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Date/Sessions: July 08, 1991/2 sessions.

Hearing Location: NASD, Inc., Cleveland, OH.

AWARD
#90-00858CASE SUMMARY

Claimants, alleged they informed Respondents that they were retired and wished to invest conservatively. Claimants stated Respondents ignored Claimants' demands that they retain control over investment decisions and that Otterson made repeated investment decisions without prior consultation with Claimants. Claimants further maintained that Respondents churned their account; committed fraudulent and manipulative activities; traded excessively and engaged in reckless actions regarding their account.

Respondents alleged that when Claimants opened their account they listed their investment objectives as income, capital gains, investment grade and speculation, respectively. Approximately five (5) years later Respondents stated Mr. Ogram decided to purchase securities strictly for capital gains and not for income. Respondents stated Mr. Ogram then purchased 200 shares of Ford Motor Co., sold some of the stock and used the proceeds to buy Integrated Resources stock. Respondents denied the allegation of churning; the allegation that shares were purchased in small lots in order to increase commissions; the allegation of unauthorized transfers; and the allegation that they committed fraudulent and manipulative activities. They stated that each transaction was made at the request of Mr. Ogram. Respondents averred that Mr. Ogram then met with Otterson again stating he wished to see even greater returns on his investment. Otterson stated he then informed Mr. Ogram concerning the trade-off of a more aggressive strategy versus greater risk of loss but Mr. Ogram decided to pursue the higher risk strategy.

RELIEF REQUESTED

Claimants requested: compensatory damages in the amount of \$33,440.00, punitive damages in the amount of \$50,000.00, attorneys' fees, interest and costs.

Respondents requested: the Statement of Claim be, in all respects, dismissed and costs.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1- Pursuant to the by-laws of the NASD, it was determined that Respondent Otterson was required to submit to this arbitration, and, therefore, is bound by this panel's rulings and determinations;
- 2- The parties have agreed that the Award in this matter may be executed in

AWARD
#90-00858

counterpart copies or that a handwritten, signed Award by entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD;

3- The undersigned arbitrators have found in favor of Respondents regarding the churning and unauthorized trading claims;

4- All other claims are dismissed;

5- The parties shall each bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$150.00 non-refundable filing fee previously deposited by Claimants and the following Forum Fee(s) are assessed.

2 sessions X \$500 = \$1,000.00.

Forum fees Assessed Against:

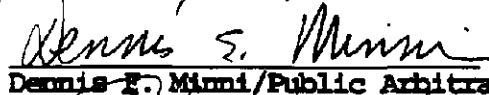
1- Claimants in the amount of \$500.00 minus hearing session deposit of \$350.00 = net \$150.00 due;

2- Respondents, jointly and severally, in the amount of \$500.00.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signature


Jonathan I. Klein/Public Arbitrator


Dennis E. Mimi/Public Arbitrator


Robert V. Shepard/Industry Arbitrator