

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

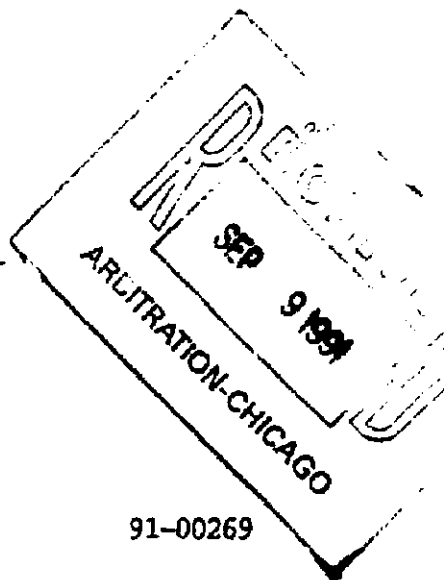
Name of Claimant(s)

Robert S. Peterson

Name of Respondent(s)

PaineWebber Incorporated  
Alan Siegel

91-00269



REPRESENTATION

For Claimant: Robert S. Peterson appeared pro se.

For Respondents: PaineWebber Incorporated and Alan M. Siegel were represented by Joseph A. Vallo, Esq. of PaineWebber Incorporated, Weehawken, New Jersey.

CASE INFORMATION

Statement of Claim filed: January 25, 1991

Claimant's Submission Agreement signed on: January 3, 1991

Statement of Answer filed by Respondents PaineWebber Incorporated and Alan M. Siegel on: April 1, 1991

Respondent PaineWebber Incorporated's Submission Agreement signed by Joseph F. Generelli on: April 10, 1991

Respondent Alan M. Siegel's Submission Agreement signed on: March 3, 1991

HEARING INFORMATION

Hearing Dates/Sessions: August 28, 1991 for two (2) sessions

Hearing Location: Minneapolis, Minnesota

### CASE SUMMARY

Claimant Robert S. Peterson ("Peterson") alleged that Respondent Alan Siegel ("Siegel"), while employed by or acting as an agent for Respondent PaineWebber Incorporated ("PaineWebber"), induced him into purchasing an unsuitable investment in preferred stock of the Mesa Limited Partnership for his IRA account in November of 1986 and failed to provide him with a prospectus. Peterson further alleged that Respondents did not exercise their fiduciary duty owed to him in regard to the handling of the IRA account.

Respondent PaineWebber Incorporated and Alan Siegel denied the material allegations of the Statement of Claim, alleging that:

1. Peterson was a knowledgeable investor with an interest in speculative stocks and high yielding issues;
2. Siegel explained several other investment vehicles to Peterson, who rejected them because the yield was too low;
3. Siegel fully explained the Mesa Limited Partnership investment to Peterson; and
4. Mesa was a solid, appropriate investment for an IRA at the time of purchase.

Respondents further alleged the following affirmative defenses:

1. Peterson is precluded from recovery on the ground of estoppel because of his failure to notify PaineWebber of his disapproval of the investment;
2. Peterson ratified the acts of PaineWebber;
3. Peterson's claims are barred on the grounds of laches and statutes of limitations;
4. Peterson fails to state a claim upon which relief can be granted;
5. Peterson's losses were proximately caused by his own contributory negligence;
6. Peterson is precluded from recovery by his failure to mitigate damages;
7. Peterson knowingly, willingly and voluntarily assumed the risk of investing in the market; and
8. PaineWebber maintained an adequate and reasonable system of supervision, acted in good faith and did not induce any of the

acts complained of by Peterson.

Prior to hearing, Claimant Peterson submitted a motion to bar Respondents PaineWebber and Siegel from presenting any matter, arguments or defenses at the hearing pursuant to Section 25(b)(2)(iii) of the Code of Arbitration Procedure. The motion and response were forwarded to the panel of arbitrators for review and decision. A majority of the panel determined that the motion was denied.

#### RELIEF REQUESTED

Claimant Robert S. Peterson requested entry of an award against Respondents Paine Webber Incorporated and Alan Siegel in the sum of \$32,800.00 in actual damages and \$98,400.00 for treble damages

Respondents PaineWebber Incorporated and Alan Siegel requested that the Statement of Claim be dismissed and denied in its entirety and that the fees and costs of these proceedings be charged against Claimant.

#### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have 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 be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD;
2. The Statement of Claim is hereby dismissed and denied in its entirety;
3. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein.

#### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

The National Association of Securities Dealers Inc. shall retain the \$150.00 claim filing fee and the \$500.00 hearing session deposit previously deposited by the Claimant Robert S. Peterson. Respondent PaineWebber Incorporated is liable for and shall pay to the NASD additional forum fees in the sum of \$500.00.

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

BY THE ARBITRATION PANEL

Dated:

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Casandra Mihalchick, Esq.  
Chairperson  
Public Arbitrator

AHHC  
Arthur H. Cobb  
Public Arbitrator

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September 7, 1991

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David Evans Rosedahl, Esq.  
Industry Arbitrator

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

BY THE ARBITRATION PANEL

Dated:

Cassandra Mihalchick, Esq.

Cassandra Mihalchick, Esq.

Chairperson

Public Arbitrator

9-11-91

Arthur H. Cobb

Public Arbitrator

David Evans Rosedahl, Esq.

Industry Arbitrator

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

BY THE ARBITRATION PANEL

Dated:

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Casandra Mihalchick, Esq.  
Chairperson  
Public Arbitrator

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Arthur H. Cobb  
Public Arbitrator

*David Evans Rosedahl*  
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David Evans Rosedahl, Esq.  
Industry Arbitrator

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2/9/91