

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

PaineWebber, Inc. :

Claimant :

vs. :

Robert E. Foy
Sheila M. Foy :

Respondents :

CASE #91-00887
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 19, 1991, Claimant, PaineWebber, Inc. by and through their in-house counsel, Edward G. Werner, Esq., alleged that in October 1987 Respondent, Robert E. Foy opened a securities account and shortly thereafter, executed a Client's Agreement form which provided terms by which a client can purchase securities on margin. Claimant further alleged that approximately one year later, Respondent, Robert E. Foy opened a joint account with Respondent, Sheila M. Foy. Claimant contended that as of September, 1987, Respondents holdings consisted of 17,057 shares of Granite Cooperative Bank ("Granite") shares in the joint account and 973 shares of Granite in Respondent, Robert E. Foy's own securities account, which shares were all purchased on margin in both accounts. Claimant further contended that from September to December 1989, these shares of Granite were all sold to meet margin calls on the accounts. Claimant asserted that in December 1988, Respondent, Robert E. Foy's personal securities account had an unsecured debit balance of \$2,040.00 and Respondents joint account had an unsecured debit balance of \$4,322.30, at which time, Respondents have paid \$545.84 of the outstanding debit in the joint account and Respondent, Robert E. Foy has paid \$932.01 of the debit balance in his personal account, thus, Respondents have failed to pay the remaining debit balance although duly demanded.

Respondents, Robert E. Foy and Sheila M. Foy failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant, PaineWebber, Inc. requested \$4,884.45 in actual damages plus interest from December 1989 plus the costs of this proceeding.

Respondents, Robert E. Foy and Sheila M. Foy failed to file an Answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Stanley H. Labinger, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 15, 1992 and not by the Respondents as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondents, Robert E. Foy and Sheila M. Foy were served a copy of the Statement of Claim by regular mail on August 12, 1991 and given an opportunity to respond, which they failed to do. Respondents, Robert E. Foy and Sheila M. Foy were notified on March 26, 1992, via certified mail, that their Statement of Answer was overdue. The signed certified mail receipts were returned to the NASD date stamped March 30, 1992, evidencing their receipt of this correspondence. Respondents, Robert E. Foy and Sheila M. Foy were notified on May 19, 1992, via certified mail, of the selected arbitrator, pursuant to Section 21 of the NASD Code of Arbitration Procedure. Although the correspondence dated May 19, 1992 was returned "unclaimed", this correspondence was re-sent regular mail on June 16, 1992 and that correspondence was not returned.

Service was effected on Respondents, Robert E. Foy and Sheila M. Foy as evidenced by the Affidavit of Service from the Deputy Sheriff of the Plymouth County Sheriff's Department, Brockton, MA, dated May 30, 1992. Respondents failed to file an Answer to the Statement of Claim.

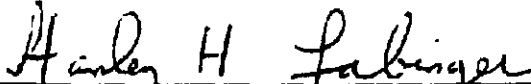
2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondents, Robert E. Foy and Sheila M. Foy were required to submit to this arbitration proceeding and are, therefore, bound by the arbitrator's ruling and determination.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Robert E. Foy and Sheila M. Foy are jointly and severally liable and shall pay to the Claimant, PaineWebber, Inc. the sum of \$3,776.46 in damages.
2. Respondent, Robert E. Foy is liable and shall pay to the Claimant, PaineWebber, Inc. the sum of \$1,108.89 in damages.
3. The Claimant's request for interest is denied.
4. The parties shall bear their respective costs.
5. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, PaineWebber, Inc. shall be retained by the NASD, Inc. Respondents, Robert E. Foy and Sheila M. Foy are jointly and severally liable and shall pay to the Claimant the sum of \$575.00 as reimbursement.

AFFIRMATION

I, **STANLEY H. LABINGER**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION:

AUG 04 1992