

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between :  
PaineWebber, Inc. :  
Claimant :  
vs. : CASE #91-00888  
Daniel Paine : AWARD  
Respondent :  
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CASE SUMMARY

PaineWebber, Inc. by its counsel Edward G. Warner, Weehawken, NJ, in a claim filed with the National Association of Securities Dealers, Inc. on March 19, 1991, alleged that Respondent, Daniel Paine, had failed to satisfy a debit balance in his customer account said debit occurring when the value of Respondents' Atari stock declined prompting a margin call.

Claimant stated that Respondents' losses were due to market risk which Paine understood and accepted. They state that Mr. Paine signed a contract confirming that he would pay for any debit resulting from margin trading.

Pro Se Respondent, Daniel Paine, maintained that he did not advise his broker that he had cash of his own to invest and states that the broker was aware that he was investing his seventy-six year old mother's retirement accounts. He continues that they were never informed of the risks of margin buying and feels his broker was wrong in failing to dispose of the shares to cover margin calls as they occurred so that he would not lose the entire investment plus an additional Four Thousand Dollars and No Cents (\$4,000.00).

Claimant replies that Respondent is an investor of experience who made no representation at any time to his broker or anyone at PaineWebber, Inc. that he did not understand he was opening an account for himself and that this account was to be used to trade securities on margin. They continue that Mr. Paine from his own experience less than a year prior to the creation of the unsecured debit balance knew that Atari could drop in price. They state that Paine was apprised of the liquidation of his Atari stock and made a conscious decision to have it liquidated rather than to meet the margin calls with cash.

RELIEF REQUESTED

Claimant requests an award of Four Thousand Two Hundred Seventy-Five Dollars and Fifty-Six Cents (\$4,275.56) plus interest from November 1990 and the costs of this proceeding.

Respondent requests agreement with his opinion.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Ann C. Northern, Esq., 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, 1991 and by the Respondent on April 26, 1991;

And, that 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. That the Respondent, Daniel Paine, is liable and shall pay to the Claimant, PaineWebber, Inc., the sum of Four Thousand Two Hundred Seventy-Five Dollars and Fifty-Six Cents (\$4,275.56).
2. The Claimants' request for interest is denied.
3. The parties shall bear their respective costs including attorney's fees.
4. The Five Hundred Seventy-Five Dollars and No Cents (\$575.00) filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, ANN C. NORTHERN, ESQ., 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.

A handwritten signature in cursive script, reading "Ann C. Northern", written over a horizontal line.

Signature of Arbitrator

DATED: August 20, 1991

EXECUTED