

Arbitration

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
One East Broward Boulevard
Suite 1000
Ft. Lauderdale, Florida 33301
(305) 522-7391

In the Matter of the Arbitration Between)

Name of Claimant(s))

Evelyn B. Adams)

Case No. 91-00951

Name of Respondent(s))

PaineWebber, Inc.)
Christopher Hodges (Third Party)
Respondent))

REPRESENTATION

For Claimant, Evelyn Adams ("Adams"): Stuart C. Goldberg, Esq. of the Law Office of Stuart C. Goldberg.

For Respondent, PaineWebber, Inc. ("PaineWebber"): Birgitta K. Siegel, Esq. of PaineWebber.

For Third Party Respondent, Christopher Hodges ("Hodges"): Terrance A. Bostic, Esq. of Bush Ross and Gardner.

CASE INFORMATION

Statement of Claim filed: March 25, 1991. Claimant's Submission Agreement signed: March 15, 1991.

Respondent, PaineWebber's, Statement of Answer filed: August 15, 1991. Respondent PaineWebber's, Submission Agreement signed by Romaine L. Gardner on behalf of PaineWebber on July 9, 1991. Respondent, Hodges, did not file a Statement of Answer. Respondent, Hodges', Submission Agreement signed on January 1, 1992.

HEARING INFORMATION

On January 15, 16, 17 and 18, 1992, in Tampa, Florida, hearings lasting eight (8) sessions were conducted.

CASE SUMMARY

Claimant alleged that Respondent, PaineWebber, was liable for violation of the Federal Racketeer Influenced and Corrupt Organizations Act (RICO). Claimant had previously filed a claim with the American Stock Exchange (AMEX) alleging RICO, fraud, unsuitability, negligence, and breach of contract relating to purchases of certain stock in Claimant's account. The AMEX arbitration Panel severed Claimant's RICO claim and awarded Claimant damages.

Respondent, PaineWebber, denied all allegations of wrongdoing and alleged that: Claimant received an Award in the AMEX arbitration and is seeking a second chance to obtain compensation from Respondent, and the AMEX arbitrators made no finding of fraud.

Respondent, PaineWebber, alleged the affirmative defenses of estoppel; contributory negligence; good faith; adequate supervisory and compliance procedures; and, collateral estoppel.

Respondent, PaineWebber, filed a Third Party Claim against Hodges and alleged that in the event the Panel finds that Hodges was engaged in fraudulent or deceptive practices, the Award attributable to such practices should be assessed against Hodges. Third Party Respondent, Hodges, failed to file an Answer but was allowed to defend at the hearing and denied all allegations of wrongdoing.

RELIEF REQUESTED

Claimant requested damages in the amount of \$82,296.18, plus attorney's fees of \$27,432.06, plus costs and interest. Respondent, PaineWebber, requested dismissal of the claim, plus costs and filed a Third Party Claim against Hodges for indemnification or contribution.

Third Party Respondent, Hodges, requested dismissal of the claim.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with the NASD.

AWARD

The arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel, based upon the evidence adduced before it, the arguments and post-hearing briefs of the parties, after due consideration, finds the claim for relief under 18 U.S.C. Section 1964 by the Claimant, Evelyn B. Adams, is not proved and is therefore denied.
2. Claimant's requests for attorney's fees and costs are denied.

3. The claim of Respondent PaineWebber against Third-Party Respondent Hodges is moot.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$4,000.00 (eight sessions x \$500.00 per session). Claimant is hereby assessed \$1,333.33 for which the NASD shall retain the \$500.00, previously deposited in partial satisfaction thereof. Respondent, PaineWebber, is hereby assessed \$1,333.33, for which the NASD shall retain the \$600.00 previously deposited in partial satisfaction thereof. Third Party Respondent, Hodges, is hereby assessed \$1,333.33, payable to the NASD.

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

Concurring Arbitrators' Signatures

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Nalton Morrow Bennett, Esq.

Public

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Joseph A. Weston

Public

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James R. Boyer

Industry

Date of Decision: March 20, 1992