

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :  
: Henry & Jeanne Maier :  
: :  
: Claimants :  
: CASE #91-02118  
vs. : AWARD  
: :  
PaineWebber, Inc. :  
Lyle E. Moss :  
Loren Lucas :  
: :  
Respondents :

In a claim filed with the National Association of Securities Dealers, Inc. on July 10, 1991, Claimants, Henry & Jeanne Maier, who appeared Pro Se, alleged that on August 27, 1990 Respondent Loren Lucas, an Investment Executive with Respondent, PaineWebber, Inc., failed to follow their explicit instructions to transfer their IRA accounts, one of which was in the Eaton Vance High Income Trust, to the Eaton Vance family of funds, at which time, they had already sustained substantial losses in these accounts. Claimants further alleged that on October 11, 1990 they spoke with Respondent, Lyle E. Moss, branch manager at Respondent, PaineWebber, Inc. to inform him about the problem, at which time, he assured them he would look into the matter and be in touch with them. Claimants contended that when they did not hear from Respondent, Lyle E. Moss, they contacted him, only to learn that their IRA accounts still had not been transferred, at which time, Respondent, Lyle E. Moss informed them the transfers could not be done. Claimants further contended that they suggested Respondent, Lyle E. Moss contact their new financial advisor, Jessica Greenway, at Financial Networks to help with the transfer process, at which time the transfer was finally accomplished on October 24, 1991. Claimants asserted that Respondent, Loren Lucas' failure to follow their explicit instructions to transfer their accounts, in addition to, Respondents, PaineWebber, Inc. and Lyle E. Moss' failure to supervise, caused a delay in the transfer, thus, creating losses to Claimant.

Respondents, PaineWebber, Inc., Lyle E. Moss and Loren Lucas by and through their in-house counsel, Joseph F. Generelli, Esq., maintained that in August 1989, Respondent, Loren Lucas, an

Investment Executive left Shearson Lehman Brothers to work at Respondent, PaineWebber, Inc., at which time, Claimants instructed Shearson Lehman Brothers, Inc. to transfer their accounts to Respondent, PaineWebber, Inc. in order to retain Respondent, Loran Lucas as their Investment Executive. Respondents further maintained that Claimants transferred their IRA accounts from Shearson Lehman Brothers to Respondent, PaineWebber, Inc. with assets in the Eaton Vance Trust, at which time the Eaton Vance Trust got caught up in an operational error at Shearson Lehman Brothers that delayed the transfer and subsequently, Eaton Vance received them upon the attempted transfer. Respondent contended that they did not cause the delay in transferring Claimant's account to Eaton Family of funds and Respondent did all they could do to unravel an operational problem caused by Shearson Lehman Brothers, and Eaton Vance. Respondents, PaineWebber, Inc., Loran Lucas and Lyle E. Moss further contended that they acted in a proper, prudent and professional manner and in accordance with all acceptable brokerage procedures, therefore, they are not liable for Claimants losses.

#### RELIEF REQUESTED

Claimants, Henry and Jeanne Maier requested \$3,393.18 in actual damages plus Punitive damages together with interest and costs.

Respondents, PaineWebber, Inc., Lyle E. Moss and Loran Lucas requested the claim be dismissed in its entirety.

#### AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Ernest D. Greco, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on July 5, 1991 and not by the Respondents as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.


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. The claims of Claimants, Henry and Jeanne Maier against Respondents, PaineWebber, Inc., Lyle E. Moss and Loran Lucas are dismissed.
2. The Claimants request for Punitive damages is denied.

3. The parties shall bear their respective costs.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, Henry & Jeanne Maier shall be retained by the NASD, Inc.

AFFIRMATION

I, **ERNEST D. GRECO**, 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: