



N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

Maida M. Richman

91-03454

Name of Respondents

Kidder, Peabody & Co., Incorporated  
John Hedden

REPRESENTATION

For Claimant Maida M. Richman, John P. Connolly, Esq. of the law firm of John P. Connolly.

For Respondents Kidder Peabody & Co., Inc. ("Kidder") and John O. Hedden ("Hedden"), Richard Kelly, Esq. of Kidder Peabody & Co.

CASE INFORMATION

Statement of Claim filed on October 31, 1991.

Claimant's Submission Agreement signed on October 8, 1991.

Statement of Answer filed by Respondents on January 7, 1992.

Respondent Kidder's Submission Agreement signed on January 3, 1992.

Respondent Hedden's Submission Agreement signed on January 3, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: June 16, 1992, 2 Sessions.  
June 17, 1992, 2 Sessions.

Hearing Location: National Association of Securities Dealers ("NASD")  
offices located in Washington, D.C.

CASE SUMMARY

Claimant alleged that she was neither knowledgeable nor sophisticated regarding securities transactions and investment planning and, therefore, relied on the expertise of Hedden and Kidder for her investment decisions.

Claimant further alleged that Hedden induced her to invest in numerous limited partnerships, closed end mutual funds, and speculative over-the-counter stocks which were unsuitable in light of her financial position and her investment objectives of income and safety of principal. Claimant further alleged that Hedden made misrepresentations and omissions concerning the suitability and risks associated with her investments. Claimant further alleged that Hedden failed to disclose the length of time the limited partnerships he purchased on her behalf would be illiquid and the funds invested therein unavailable to Claimant. Claimant further alleged that Hedden engaged in a pattern of trading activity, involving the rapid purchase and sale of mutual funds and short term trades, that was unsuitable in view of Claimant's investment objectives. Claimant further alleged that Kidder breached its obligation to supervise Hedden and failed to fulfill its fiduciary obligation to ensure that suitable securities were purchased for Claimant's needs. Claimant further alleged that Respondents violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder; the District of Columbia Blue Sky Law; and the NASD Rules of Fair Practice. Claimant further alleged that Respondents breached written and oral agreements with Claimant; intentionally or recklessly engaged in a course of fraudulent acts including misrepresentations and omissions; and that Respondents breached their fiduciary duty to Claimant.

Respondents maintained that the investments purchased by Claimant on Hedden's recommendations were suitable in light of Claimant's financial objectives of safety of principal, income, and long term growth. Respondents further maintained that at the time the investments were made the Claimant had not indicated a desire for liquidity or short term access to the funds. Respondents further maintained that the returns generated by the limited partnerships were consistent with Claimant's investment objectives. Respondent alleged that Claimant's 10(b) and 10b-5 claims, her Blue Sky claim, and her claims for breach of NASD rules, breach of contract, fraud and breach of fiduciary duty were barred by the applicable statutes of limitation. Respondents further maintained that Claimant suffered no out of pocket loss on her investments.

RELIEF REQUESTED

Claimant requested that a decision and award be rendered against the Respondents, jointly and severally as follows:

1. The sum of approximately \$185,000.00 in compensatory and investment opportunity loss damages.
2. That interest be assessed from the date of the activities complained of up to the time of payment of the award.

3. Those costs, NASD fees, and attorneys' fees incurred by Claimant in order to prosecute this action.
4. The sum of \$250,000.00 in punitive damages.
5. Such other and further relief to which Claimant may be justly entitled as determined by the Arbitration Panel.

Respondents requested that the claim be dismissed and that all costs and fees be assessed against the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The parties were given two weeks following the final hearing session to submit post hearing briefs due on July 31, 1992.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Respondents Kidder Peabody & Co., Inc. and John O. Hedden are liable jointly and severally and shall pay to the Claimant the sum of \$26,358.85, interest specifically excluded.
2. The Respondents Kidder Peabody & Co., Inc. and John O. Hedden be and hereby are liable jointly and severally and shall pay to the Claimant the sum of \$142,500.00 upon tender by the Claimant to the Respondents of the following five limited partnerships:

American Income Fund I-A (400 units)  
American Income Partners V-B, (800 units)  
American Income Partners V-D (400 units)

Cencom Cable Income Part I-3 (5 units)

Cinema Plus LP (10 Units)

KP-Wingate (2000 units)

Polaris Aircraft III (25 units)  
Polaris Aircraft IV (50 units)  
Polaris Aircraft V (40 units)  
Polaris Aircraft VI (20 units)

3. The Claimant's request for punitive damages is denied.
4. Each party shall bear their respective costs including attorneys' fees.

FORUM FEES

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

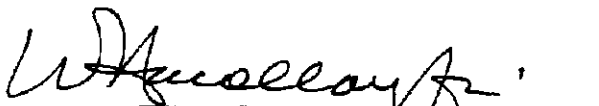
4 sessions X \$750 = \$3,000 minus hearing session deposit of \$750 =  
net \$2,250 due.

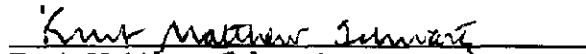
The Respondents be and hereby are liable jointly and severally and shall pay to the NASD the sum of \$2,250.00 to represent forum fees.

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

ARBITRATOR SIGNATURES

  
Edgar T. Bellinger, Esq.  
Public Arbitrator

  
William H. Malloy, Jr., Esq.  
Public Arbitrator

  
Kurt Matthew Schwartz  
Industry Arbitrator

Date of Decision: September 28, 1992