

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Barry & Beth Schneider

91-04150

Name of Respondent(s)

PaineWebber, Inc.
Joseph Bradley

REPRESENTATION

Claimants, Barry S. Schneider and Beth Schneider ("Claimants"), Stuart Kaufman, Esq. and Arthur Fisch, Esq., from the law firm of Fisch and Kaufman.

For Respondents, PaineWebber, Inc. ("PaineWebber") and Joseph Bradley ("Bradley"), Paul G. Thomas, Esq., in-house counsel.

CASE INFORMATION

Statement of Claim filed on: December 31, 1991.

Claimant's Submission Agreement signed on: December 23, 1991.

Joint Statement of Answer filed by PaineWebber and Bradley ("Respondents") on March 16, 1992.

PaineWebber's Submission Agreement was signed on March 13, 1992.

Bradley's Submission Agreement was signed on April 15, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: December 1, 1992 - Two Sessions

December 2, 1992 - Two Session
December 3, 1992 - Two Sessions
December 21, 1992 - Two Sessions

Hearing Location: National Association of Securities Dealers, Inc.'s offices located at 33 Whitehall Street, New York City, New York.

CASE SUMMARY

Claimants allege that Respondents improperly handled their account and that PaineWebber failed to properly supervise Bradley. Claimants state that they were unsuitable for the kind of trading that occurred in their accounts in light of their net worth and the types of investments purchased. Claimants further allege that Bradley actively participated in falsifying financial information to enable the claimants to trade options.

Claimants allege that Bradley was aware that Barry Schneider had become obsessed with trading and had used proceeds from the settlement of an accident claim and funds which daughter received for her bar mitzvah to purchase highly speculative investments. Additionally, Claimants allege that Bradley executed trades in Beth Schneider's account without speaking with her or obtaining a power of attorney.

Claimants also state that Respondents' actions amounted to a violation of NASD, NYSE and PaineWebber's own rules.

Respondents contend that Barry Schneider ("Schneider") is an informed and intelligent options trader who has been trading options since September, 1985. Respondents contend that his claim for damages based upon the ground that PaineWebber should have known that he was "motivated by an obsessive compulsion which he could not control" should be denied.

Respondents allege that Bradley has known Schneider as a friend and client for ten years when Bradley was a broker at Shearson & Co. Respondents state that Schneider transferred his accounts to Smith Barney and then PaineWebber when Bradley became employed by those firms. Respondents contend that Schneider invited Bradley to family events^{and} gave the impression that he was financially well off. Additionally, Respondents allege that Schneider told Bradley that his wife came from a wealthy family and that his future financial position was secure.

Respondents contend that Beth Schneider was well aware of her account at PaineWebber and that while there was no trading authorization on file by Beth Schneider authorizing Barry Schneider to make trades in her account, Barry Schneider had been doing so prior to 1987.

Respondents deny liability for any losses sustained by Claimants and assert seventeen affirmative defenses.

RELIEF REQUESTED

Claimants request an award of \$295,000.00 in trading losses and lost interest, punitive damages, \$30,000.00 in attorney's fees and such other relief as the arbitrators may deem appropriate under the circumstances.

Respondents request that the Statement of Claim be denied in all respects and the costs of these proceedings be assessed against Claimants.

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 may 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.

FINDINGS OF FACTS

1. This panel finds that PaineWebber and Bradley acted recklessly and with flagrant disregard for compliance rules and regulations imposed by NASD and other appropriate authorities.
2. Specifically, Respondents have allowed Barry Schneider to trade in his wife's account since its opening (from at least January, 1986) without proper authorization from her. PaineWebber argued that this compliance failure was negligence, and occurred without PaineWebber's knowledge. We determined that Bradley had full knowledge of this failure from the opening of the account and that PaineWebber should have known about their compliance failures. Nonetheless, even if we accept PaineWebber's argument that

their behavior with respect to Mrs. Schneider's account resulted from negligence when it was first opened. we determined that without doubt, PaineWebber gained full knowledge of this unauthorized third-party trading in Beth Schneider's account in March 1987 while negotiating with Mr. Schneider regarding an alleged trading error in Mrs. Schneider's account. After a settlement was reached, PaineWebber continued to allow Mr. Schneider to trade in his wife's account without proper authorization.

3. Moreover, after this settlement, we found that PaineWebber's inadequate supervision over Bradley with respect to Mrs. Schneider's account was flagrant and reckless. Specifically, they failed to assure that Mrs. Schneider was aware of the transactions in her account and was in accord with such activities. Apparently, throughout the tenure of her account, which at periods was an active options account, only one "comfort" letter was sent, and there was no follow-up. Trading in Mrs Schneider's account was inconsistent with the stated primary goal -- investment -- on the new account form.
4. In addition, Bradley apparently engaged in a number of other irregularities with respect to the Schneider accounts, and although these specific irregularities were not proven with clear and convincing proof, we were convinced that PaineWebber's supervision with respect to Bradley, with regard to both of Barry Schneider's individual accounts and Beth Schneider's account, was reckless.

AWARD

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

1. Respondents are jointly and severally liable to Beth Schneider in the amount of **SIX THOUSAND ONE HUNDRED AND TEN DOLLARS AND THIRTY SIX CENTS (\$6,110.36)** plus interest in the amount of **ONE THOUSAND FOUR HUNDRED AND FORTY THREE DOLLARS AND SEVENTY CENTS (\$1,443.70)** through January 30, 1993. If the Award is not paid by January 30, 1993, Respondents shall be further liable to Beth Schneider for interest at \$1.51 per day commencing on January 31, 1993;
2. Respondents are jointly and severally liable for Beth Schneider for punitive damages in the amount of **TWENTY THOUSAND DOLLARS AND ZERO CENTS (\$20,000.00)**;
3. All claims asserted by Barry S. Schneider against Respondents are denied.

4. All claims for attorney's fees are denied.
5. The claim for expert fees is denied.

FORUM FEES

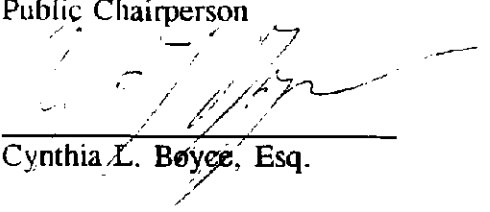
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

\$ 250.00 - Non-refundable
\$6,000.00 - Hearing sessions fees for 8 sessions at \$750.00 per session

1. Claimants are assessed and have paid \$950.00.
2. PaineWebber is assessed \$5,250.00 in forum fees.
3. PaineWebber is further assessed \$750.00 for postponement of the October 27, 1992 hearing.

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

Concurring Arbitrator's Signature
Public Chairperson



Cynthia L. Boyce, Esq.

Date of Decision: February 5, 1993

4. All claims for attorney's fees are denied.
5. The claim for expert fees is denied.

FORUM FEES

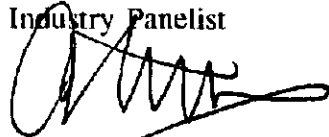
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Concurring Arbitrator's Signature
Industry Panelist



Aegis J. Frumento, Esq.

Date of Decision: February 5, 1993

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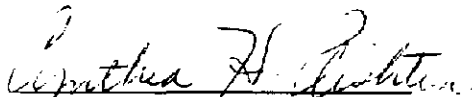
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Concurring Arbitrator's Signature
Public Panelist


Cynthia H. Plishtin

Date of Decision: February 5, 1993