

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Elisabeth Schulte and Ray Schulte

92-00045

Name of Respondents

Legg Mason Wood Walker, Inc.
Terry Eisert

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 7, 1992, Claimants Elisabeth and Ray Schulte, who appeared Pro Se, alleged that they seldom trade and only trade on the recommendation of Respondent Terry Eisert, an Investment Broker with Respondent Legg Mason Wood Walker, Inc. Claimants further alleged that they turned their money over to Respondent Terry Eisert, at which time, he indicated he thought he could increase Claimants' account 15% a year. Claimants contended that they bought First Executive, Atlantic Financial and Imperial Corp. of America on the recommendation of Respondents but even when First Executive and the S & L industry got into trouble, Respondents never recommended to sell. Claimants further contended that all the stocks went to zero value, and Respondents Legg Mason Wood Walker, Inc. and Terry Eisert had an obligation to recommend selling at some point. Claimants asserted that because of Respondents failure to act, they should be responsible for half of their loss.

Respondents Legg Mason Wood Walker, Inc. and Terry Eisert by and through their in-house counsel, John R. Gilner, Esq., maintained that Claimant Ray Schulte is listed as a Claimant even though he does not assert any personal ownership on the account, thus Claimant Elisabeth Schulte is the only individual who has any standing to bring this action. Respondents further maintained Claimants demanded damage without establishing how Respondents were the proximate cause of any loss suffered, in addition Claimants have not presented any facts to suggest that a brokerage firm which maintains a non-discretionary account for an investor has an obligation to recommend the sale of a security. Respondents contended that Claimants could have instructed Respondents to sell the stock at any time. Respondents further contended that

throughout the handling of Claimants' account. Respondents acted diligently to provide investment recommendations consistent with her overall objective of income and capital appreciation.

RELIEF REQUESTED

Claimants Elisabeth and Ray Schulte requested \$8,546.02 in actual damages.

Respondents Legg Mason Wood Walker, Inc. and Terry Eisert requested the claim be dismissed with prejudice.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Michael M. Lasavio, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on December 2, 1991, by the Respondent Legg Mason Wood Walker, Inc. on March 20, 1992 and by the Respondent Terry Eisert on March 30, 1992.

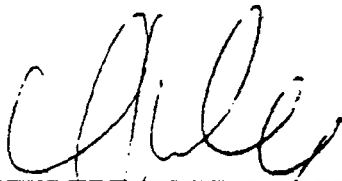
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimants Elisabeth and Ray Schulte against Respondents Legg Mason Wood Walker, Inc. and Terry Eisert are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Elisabeth and Ray Schulte shall be retained by the NASD, Inc.

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AFFIRMATION

I, **MICHAEL M. LOSAVIO, 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, appearing to read "M. Losavio", written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: March 9, 1993