

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Howard A. McKinnon

No. 92-00176

Name of Respondents

PaineWebber, Inc.
Paul Laszlo

REPRESENTATION

For Claimant: Ralph J. Sirlin, Esq., Bloomfield, MI.

For Respondents: Edward G. Werner, Esq. Assistant Vice President
and Litigation Counsel of PaineWebber, Inc., Weehawken, NJ.

CASE INFORMATION

Statement of Claim filed: January 16, 1992.

Claimant's Submission Agreement signed on: January 13, 1992.

Joint Statement of Answer filed by Respondents PaineWebber and
Paul Laszlo on or about March 5, 1992.

Respondent Paul Laszlo's Submission Agreement signed on: April 6,
1992.

Respondents' Amended Answer filed on: March 13, 1992.

HEARING INFORMATION

Hearing Dates: October 5, 1992. Two (2) sessions.

Hearing Location: Detroit, Michigan.

CASE SUMMARY

Claimant, Howard A. McKinnon, ("Claimant"), alleged negligence, unsuitability, and breach of fiduciary duty by Respondent PaineWebber, Inc., ("PaineWebber") through Respondent Paul Laszlo, ("Laszlo"), an account executive employed by PaineWebber. The allegations arose from Laszlo allegedly repeatedly recommending and investing Claimant's funds in a number of limited partnerships.

Claimant alleged that prior to opening an account at PaineWebber, he had limited experience in investing. He further alleged that he had informed Laszlo that his income was limited and his investment objective was to insure that the funds invested in the account would not lose any value. Claimant also alleged that Laszlo represented to him that he would control the account to satisfy Claimant's investment objectives and that the funds would always be available at any time for withdrawal. In addition, Claimant asserted that the Respondents made and supplied materially false and misleading statements which he relied upon. Also, Claimant alleged that the Respondents' omission of facts induced Claimant to turn over his funds to Laszlo. Lastly, Claimant alleged Respondents committed fraud and misrepresentation, were negligent in the handling of his account, inflicted emotional distress upon the Claimant and violated NYSE rules and regulations and Section 410(a)92 of the Michigan Uniform Securities Act, MCLA 451.810(a)(2). Claimant alleges that these acts and omissions resulted in the loss of virtually his entire deposit with Respondents.

In their Statement of Answer, Respondents denied the substantial allegations contained in the Statement of Claim. In addition, Respondents asserted Laszlo recommended to Claimant investing in only income limited partnerships and that he stressed the illiquidity of limited partnerships to Claimant. Respondents further alleged that Claimant was given prospectuses to each of the three limited partnerships before he invested in them. Respondents asserted Claimant had full knowledge of the potential illiquidity of the three limited partnerships and their potential income producing capabilities. In addition, Respondents alleged that Claimant decided the income limited partnerships were suitable for his needs and income objectives. Respondents further alleged that the purchase of the limited partnerships which occurred in Claimant's account were consistent with his stated objectives. Also, Respondents asserted that Claimant ratified and approved of these transactions.

In their Amended Statement of Answer, Respondents attached the submission agreements to each limited partnership, allegedly signed by the Claimant.

RELIEF REQUESTED

Claimant requested an award of \$20,000 in compensatory damages, with interest, costs, expenses and attorney fees plus punitive and exemplary damages.

Respondents requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

At the hearing held on October 5, 1992, Claimant dropped all claims for damages with the exception of damages connected to Claimant's position of 20 units of PaineWebber Income Properties #7 along with a claim of interest from the date of purchase, attorneys' fees based on statutory contingency fees and exemplary damages. Claimant offered to tender the 20 units back to Respondents.

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 original remain on file with the NASD.

AWARD

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

1. Respondents PaineWebber, Inc. and Paul Laszlo are jointly and severally liable for, and shall pay to Claimant, Howard McKinnon, the sum of \$27,965.80 which consists of the following elements:

*Initial Investment	\$20,000.00
*Interest at 5.75%	
for 7 years	8,050.00
*Less monies already	
disbursed to Claimant	(4,084.20)
*Plus 1/2 of statutory	
attorneys' fees	4,000.00

2. Claimant, Howard McKinnon, must assign jointly and severally to Respondents, PaineWebber, Inc. and Paul Laszlo, all of Claimant's right, title and interest into the twenty (20) units of limited partnership interest in PaineWebber Income Properties seven (7) limited partnership.

3. The authority for the attorney's fees award (1/2 of the statutory contingency fee permitted under Michigan law) is found at MCLA 541.810 (a), Prince v. Heritage, 109 Mich.App. 189 (1981), where the court stated that "It is unfair, when broker misconduct is found to only return the customer's loss - less attorney's fees incurred to recover what never should have been lost in the first place. The only way to stop misconduct is to take the profit out of it."

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure (the "Code"), the following forum fees are assessed:

2 hearing sessions x \$400.00 = \$800.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$100.00, and shall refund the hearing session deposit in the amount of \$400.00 previously paid to the NASD by the Claimant.

Forum fees in the amount of \$800.00 are assessed jointly and severally against the Respondents.

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

Concurring Arbitrator's Signatures

Dates

Name

October 23, 1992

/s/Carole Crosby
Carole Crosby
Presiding Chair
Public Arbitrator

October 20, 1992

/s/Peter M. Kellet
Peter M. Kellet
Public Arbitrator

October 21, 1992

/s/John R. Main
John R. Main
Industry Arbitrator

Date Served by the NASD: 11-6-92