

N.A.S.D. STIPULATED AWARD
NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Fred C. Hammer
Marlene Whitaker

92-00982

Name of Respondent(s)

PaineWebber, Inc.
William J. Hampton
Florencio Otto Busot

REPRESENTATION

For Claimants, Fred C. Hammer and Marlene Hammer ("the Hammers"): Marina Shank-Klein, Esq.

For Respondents, PaineWebber ("PW") and Florencio Otto Busot ("Busot"): Bennett Falk, Esq. of Morgan Lewis & Bockius

Respondent, William J. Hampton ("Hampton"): was initially represented by David H. Lichter of Kenny, Nachwalter, Seymour, et al, who subsequently withdrew on February 11, 1993 and thereafter was pro se.

CASE INFORMATION

Statement of Claim filed: March 20, 1992 and amended June 10, 1992.

Claimants' Submission Agreement signed: March 17, 1992.

Respondents, PW and Busot's, Statement of Answer to Amended Claim filed: August 7, 1992.

Respondents, PW and Busot's, Submission Agreements signed on January 12, 1993 and on November 11, 1993 by Patricia E. Cowart on behalf of PW.

Respondent, Hampton's, Statement of Answer filed: July 21, 1992. Hampton failed to sign a Submission Agreement as required by Sections 12 and 25 of the Code (see "Other Issues").

CASE SUMMARY

Claimants alleged that Respondents were liable for: breach of contract; breach of fiduciary duty; unsuitability of investments; fraudulent transactions in violation of Florida Statute Section 517.301; common law fraud; misrepresentations and fraud in connection with the purchase and sale of securities; churning; civil theft; and, negligent supervision.

Respondents, PW and Busot, denied all allegations of wrongdoing and stated that the Claimant was aware of the risks of the investments in which they were engaged. Respondents further stated the risks of the investments were fully disclosed to the Claimant in prospectuses and disclosure documents furnished to him. Respondents asserted the affirmative defenses of: statute of limitations; ratification; waiver; estoppel; laches; contributory negligence; assumption of risk; failure to mitigate losses; and, the economic loss rule.

Respondent, Hampton, denied all allegations of wrongdoing.

RELIEF REQUESTED

Claimants requested: compensatory damages in the amount of \$367,087.00, plus interest and costs.

Respondents requested: dismissal of the Claim plus attorneys fees.

OTHER ISSUES CONSIDERED & DECIDED

1. Jurisdiction exists pursuant to Sections 8 and 25 of the NASD Code of Arbitration Procedure.
2. This Panel finds that Respondent, Hampton, being a person associated with an NASD member firm at the time this controversy arose, was required to sign a Submission Agreement pursuant to Sections 12 and 25 of the Code.

AWARD

After considering the pleadings, and the attached stipulation of settlement the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

The undersigned Panel hereby approves the attached Stipulation of Settlement, signed by the respective parties and reviewed by their counsel and incorporates the Stipulation by reference into this Award.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the Claimants are hereby assessed forum fees in the amount of \$500. The NASD shall retain the \$500 of \$1,000 hearing session deposit previously deposited by Claimants in full satisfaction of such fees. Respondent, PaineWebber, is hereby assessed \$500 payable to the NASD. The NASD shall refund to Claimant the balance of \$500.

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

Concurring Arbitrators' Signatures

15/
Lewis J. Levey, Esq

Public

15/
Norman L. Weiss

Public

15/
Morton Weissman

Industry

Date of Decision: 2/9/94

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of Arbitration between

Fred C. Hammer and
Marlene Whitaker,

Claimants

vs.

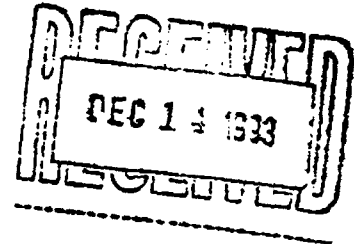
92-00982

PaineWebber, Inc., a Delaware
corporation,

William J. Hampton,

Florencio Otto Busot
a/k/a Otto F. Busot,

Respondents.



STIPULATION OF SETTLEMENT

Come Now Fred C. Hammer, ("Hammer") and Marlene Whitaker, ("Claimants"), PaineWebber Incorporated ("PaineWebber") and Florencio Otto Busot ("Busot") two of the Respondents in the above captioned case and they hereby enter into this Stipulation of Settlement as follows:

1. PaineWebber will pay Claimants an agreed upon sum in full settlement of the claims which are described in the Statement of Claim filed by Claimants with the NASD for the above captioned case. Said amount will be payable as follows:

a) Upon the signing of this Stipulation of Settlement by PaineWebber and Fred C. Hammer a check in a previously agreed upon amount will be delivered to Hammer's counsel.

b) The sum of at least forty thousand (40,000) dollars, or the actual amount obtain from the sale of the securities described below, whichever is higher, will be payable upon the earlier of the following to occur:

(i) The sale by PaineWebber of the securities in Claimants' PaineWebber account numbers GO-00422, securities in Account No. GO-00524, and securities in account GO-00480. A list of securities in each of the referenced accounts is attached hereto and incorporated herein as Exhibits A, B, and C.

(ii) June 10, 1994

2. Claimants agree to sign a Release in favor of PaineWebber and Busot in the form and substance attached hereto as Exhibit D (the "Release:"). The Release will except from its terms (i) William J. Hampton and any securities sold by William J. Hampton to Claimants while he was employed at Prudential Bache and (ii) the sum of \$40,000 payable by PaineWebber under the terms of paragraph (1)(b) above. The Release will refer to the fact that said Release is being entered into pursuant to the terms of this Stipulation of Settlement.

3. Upon receipt by Claimants of the actual proceeds from the sale of the securities, or the forty thousand (\$40,000) dollars

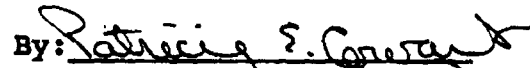
referred to in paragraph 1(b) above, Claimants will sign a General Release in favor of PaineWebber & Busot.

4. Upon signing of the Release attached hereto as Exhibit D, Claimants will agree to dismiss with prejudice the Statement of Claim filed by Claimants with the National Association of Securities Dealers (the "NASD").

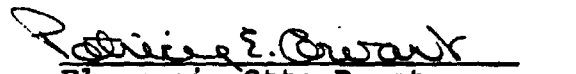
5. The parties will request that the arbitrators enter as their Award this Stipulation of Settlement entered into by the parties.

PaineWebber, Incorporated


Fred C. Hammer

By: 
CORP V. P.


Marlene Whitaker


Florencio Otto Busot
as attorney

AWARD ON STIPULATION

This cause came before the arbitrators upon the foregoing Stipulation for an entry of an Award on Stipulation and the arbitrators being duly advised, it is ordered that the foregoing Stipulation of Settlement is hereby adopted as the arbitrators

Award on this cause and the parties are ordered to comply therewith.

Fort Lauderdale, Florida,

December _____ 1993.

Chairperson

Arbitrator

Arbitrator

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