

## N.A.S.D. AWARD

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Edith S. Hartley

vs.

92-01947

Name of Respondents

PaineWebber, Inc.  
Larry G. Tate

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 11, 1992 Claimant Edith S. Hartley, who appeared Pro Se, alleged that in January 1987 after reviewing a summary of her account statement from Respondent PaineWebber, Inc. she felt there had been excessive trading in her account whereby she became concerned with the loan amount. Claimant further alleged that she contacted Respondent Larry G. Tate to inform him she was not comfortable with the loan amount, at which time, she requested that Respondent Larry G. Tate, Investment Executive, to review her investments in order to start getting her out of that position, whereby Respondent Larry G. Tate assured Claimant there was nothing to worry about, and that he would take care of her account. Claimant contended that in April 1987 BBN Limited Partnership was offered by phone for \$10,000.00 whereby she specifically inquired if this was a single payment contract, at which time, Respondent Larry G. Tate informed Claimant there would be no further payments and he advised her that she had to hurry to sign the agreement. Claimant further contended that she went to Respondent PaineWebber, Inc. office to sign the agreement which was not completed, but was assured she would get a completed copy right away, which she did not. Claimant asserted that in August 1987 she again expressed her discomfort and anxiety over the amount of loan in the account, whereby she instructed Respondent Larry G. Tate to close it up and get out of the margin position; however, he failed to comply with her request. Claimant further asserted that in January 1988 she had to sell some bonds at a \$15,000.00 loss to cover the loan account to restore her account to an equity position and subsequently, in April 1988 Claimant received a notice from BBN that a payment was due, at which time, she contacted Respondent Larry G. Tate and was advised there were additional payments as per the contract she signed; a contract she never received.

Claimant argued that Respondent Larry G. Tate misrepresented the partnership to her and in January 1989 when she tried calling him, the receptionist at Respondent PaineWebber, Inc. advised her he was no longer there, whereby he had left the state, at which time, the receptionist could not tell her who was handling her account. Claimant further argued that the BBN form had incorrect information on it and Respondent Larry G. Tate mismanaged her account by recommending inappropriate and excessive investments for a person of her age, in addition to Respondent's PaineWebber, Inc. failure to supervise, caused her losses in her account.

Respondents PaineWebber, Inc. and Larry G. Tate by and through their in-house counsel, Elyse A. Adrian, Esq., maintained that Claimant Edith S. Hartley is a sophisticated investor and an astute business woman whereby she was well informed and clearly aware of the risks involved in trading stocks on margin, in addition to investing in limited partnerships. Respondents further maintained that Claimant was indeed provided with a BBN prospectus, at which time, Respondent Larry G. Tate thoroughly reviewed the investment with her whereby Claimant, of her own accord, signed the agreement. Respondents contended that Respondent Larry G. Tate was in constant contact with Claimant and she had a clear understanding of all the transactions occurring in her account thus Respondents should not be held liable for any loss incurred by Claimant.

#### **RELIEF REQUESTED**

Claimant Edith S. Hartley requested \$10,000.00 in actual damages.

Respondents PaineWebber, Inc. and Larry G. Tate requested the claim be dismissed with prejudice, with costs to be taxed against Claimant, including reasonable attorney's fees.

#### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Linda J. Garofola, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 5, 1992, by the Respondent Larry G. Tate on July 15, 1992 and by the Respondent PaineWebber, Inc. on August 3, 1992.

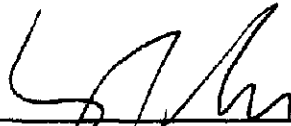
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Edith S. Hartley against Respondents PaineWebber, Inc. and Larry G. Tate are dismissed.

2. The parties shall bear their respective costs, including attorney's fees.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Edith S. Hartley shall be retained by the NASD, Inc.

**AFFIRMATION**

I, LINDA J. GAROFOLA, 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.



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Signature of Arbitrator

DATE OF DECISION: January 4, 1993