

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Virginia M. Happel individually and as
trustee of the Virginia M. Happel Trust

Case No. 92-02227

Name of Respondent(s)

PaineWebber, Inc.
Dale L. Emerick

REPRESENTATION

Claimant, Virginia M. Happel ("Happel") was Pro Se.

For Respondents, PaineWebber, Inc. ("PaineWebber") and Dale L. Emerick ("Emerick"):
Michael R. Alford of PaineWebber.

CASE INFORMATION

Statement of Claim filed: July 7, 1992. Claimant's Submission Agreement signed: June 30, 1992.

Respondents, Joint Statement of Answer filed: September 25, 1992. Respondents' Submission Agreement signed: September 24, 1992 by Joseph Generelli on behalf of PaineWebber and by Emerick on September 18, 1992.

HEARING INFORMATION

On April 12, 1993, in Tampa, Florida, a hearing lasting two sessions was conducted.

CASE SUMMARY

Claimant alleged that Respondents recommended a purchase of a certain limited partnership and told Claimant "the investment would be safe with a high return". Claimant also alleges that a prospectus for the limited partnership was not given to Claimant prior to the purchase. Claimant

alleges she advised Emerick that she could not afford "risky investments" and that if she had received a prospectus prior to purchasing the limited partnership she would have not purchased it.

Respondents denied all allegations of wrongdoing and alleged that: Claimant received over \$7,000 in income since the date of her investment; Claimant suffered no actual loss; Claimant had experience investing in risky investments prior to the purchase of the limited partnership; and, Claimant had been given a prospectus for the limited partnership.

Respondents alleged affirmative defenses including: failure to state a cause of action; good faith; lack of causation; estoppel; ratification; laches; statute of limitations; failure to mitigate damages; lack of reliance; authorization; assumption of risk; waiver; no damages incurred; and. Respondent, PaineWebber, acted reasonably.

RELIEF REQUESTED

Claimant requested return of her investment of \$25,000.

Respondent requested dismissal of the claim and that costs be assessed against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

None.

AWARD

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

1. Respondents are found not liable and, therefore, all claims against them are hereby dismissed.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

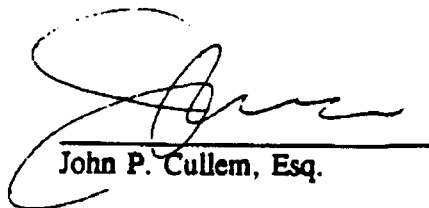
1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$600 (two sessions x \$300 per session).
2. Claimant is hereby assessed \$300 for which the NASD shall retain the \$300 previously deposited in full satisfaction thereof.
3. Respondents, PaineWebber and Emerick are hereby assessed \$300, jointly and severally,

payable to the National Association of Securities Dealers, Inc.

4. The NASD shall retain the non-refundable filing fee of \$100 paid by the Claimant.

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

Arbitrator's Signature



John P. Cullem, Esq.

Public

Date of Decision: June 4, 1993