

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Conrad Wertheim and Frances Wertheim

Case No. 92-02248

Name of Respondent(s)

Legg Mason Wood Walker, Inc
Charles B. Lundin

REPRESENTATION

For Claimants, Conrad and Frances Wertheim ("the Wertheims") Patricia Shub, Esq. of Patricia A. Shub, P.A.

For Respondents, Leg Mason Wood Walker, Inc. ("Legg Mason") and Charles Lundin ("Lundin") Dana Pescosolido of Fairbanks, Gault and Pescosolido.

CASE INFORMATION

Statement of Claim filed: July 6, 1992.

Claimants' Submission Agreement signed: May 13, 1992.

Respondents' Legg Mason and Lundin Statement of Answer filed: October 19, 1992.
Respondents' Submission Agreements signed: October 5, 1992 by Lundin, and on October 14, 1992 by John Gilner on behalf of Legg Mason.

HEARING INFORMATION

On June 1 and 2, 1993, in Fort Lauderdale, Florida, hearings lasting four sessions were conducted.

CASE SUMMARY

Claimant alleged that Respondents were liable for violation of Chapter 517 of the Florida Statutes; breach of fiduciary duty; common law fraud; and, negligent supervision. Claimants

alleged that Respondents misrepresented the safety and potential return of a certain limited partnership and purchased an unsuitable, highly speculative bond and otherwise bought and sold securities in Claimants' accounts in a manner that had no relationship to Claimants investment objectives.

Respondents denied all allegations of wrongdoing and alleged that Mr. Wertheim was a sophisticated investor who directed the trading in his accounts; Claimants were advised of the risks involved in the trades; no misrepresentations were made; and, Lundin was unable to persuade Mr. Wertheim to diversify Claimants' portfolio.

RELIEF REQUESTED

Claimants requested rescission and/or damages in an amount equal to the difference between the consideration paid for the securities and the value of the securities at the time they were disposed of plus any income received from the securities plus interest, attorney's fees, and costs plus the return of the commissions paid as well as the difference between the value of the portfolio at the time of the hearing and the value it would have had had it been suitably invested.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

AWARD

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

1. Respondents, Legg Mason and Lundin, are found liable, jointly and severally, and shall pay to the Claimants the amount of \$27,454.97, plus interest at the legal rate of 12% per annum in the amount of \$9,883.79 for a total due to the Claimants of \$37,338.76.
2. Claimants' request for attorney's fees, costs and other relief is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum

fees in the amount of \$2,000.00 (four sessions x \$500.00 per session).

2. Claimants are hereby assessed \$1,000.00 for which the NASD shall retain the \$500.00 previously deposited in partial satisfaction thereof leaving a balance due of \$500.00 payable to the National Association of Securities Dealers, Inc.

3. Respondents, Legg Mason and Charles Lundin are hereby assessed \$1,000.00, jointly and severally, payable to the National Association of Securities Dealers, Inc.

4. The NASD shall retain the non-refundable filing fee of \$150.00 paid by the Claimants.

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

/s/
Lewis J. Levey, Esq.

Public

/s/
James M. Dunne

Public

/s/
Nicholas A. Natale

Industry

Date of Decision: July 19, 1993