

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

William E. Biegenwald

**N.A.S.D. Arbitration
No. 92-02288**

Name of Respondents

PaineWebber, Inc.
Rotan Mosle Inc.
Evelyn Henne

REPRESENTATION

For Claimant: William E. Biegenwald, Honolulu, Hawaii.

For Respondent: Scott M. Ratchick, Esq., PaineWebber, Inc., Los Angeles, California.

CASE INFORMATION

Statement of Claim filed: July 6, 1992

Claimant's Submission Agreement signed on: July 6, 1992

Joint Statement of Answer filed by Respondents, PaineWebber, Rotan Mosle and Evelyn Henne on: September 25, 1992

Respondent's Submission Agreement signed on:

PaineWebber: September 29, 1992

Rotan Mosle: September 29, 1992

Evelyn Henne: September 10, 1992

HEARING INFORMATION

Pre-Hearing Conference: May 6, 1993 - 1 session

Hearing Date(s)/Sessions: June 3, 1993 - 2 sessions

Hearing Location: San Diego, California

CASE SUMMARY

Claimant alleged lack of suitability, misrepresentation, fraud & breach of fiduciary duty in connection with recommendations and unauthorized transactions for Claimant's margin account.

Respondents each denied all allegations of wrongdoing, and asserted that claimant authorized and ratified each and every transaction in his account. Further, Respondents alleged that Claimant was aware of the risks associated with his account and knowingly assumed them. Lastly, Respondents alleged that each and every cause of action asserted by Claimant is barred by applicable statutes of limitations.

RELIEF REQUESTED

Claimant requested damages of \$29,000.00 plus legally permissible interest.

Respondents requested dismissal of all claims and reimbursement of all court costs and attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondents made motion to change situs which was denied. Industry panelist Lewis Brown heard the Pre-Hearing conference, held on 5/6/93, but subsequently withdrew and was replaced by John Norberg at the hearing.

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. All claims asserted by the Claimant are dismissed.
2. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

Total fees:

2 hearing sessions @ \$400 / session	=	\$ 800.00
<u>1 pre-hearing session @ \$300 / session</u>	=	<u>\$ 300.00</u>
		\$1,100.00
Claimant's one-half share		\$ 550.00
<u>Credit for deposit</u>		<u>\$ 400.00</u>
Balance Due		\$ 150.00
Respondent's one-half share, assessed jointly and severally:		\$ 550.00

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

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Robert J. Ruben, Esq.	Public Chairperson
John L. Norberg, III	Industry Panelist
Monte J. Newman	Industry Panelist

Robert J. Ruben, Esq.

John H. Norberg, III


Monte J. Newman

6-23-93

Date Served: