

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Herbert and Annabelle Wolfzahn

92-02632

Name of Respondent

PaineWebber, Inc.

CASE SUMMARY

In a claim filed with National Association of Securities Dealers, Inc. on August 7, 1992 Claimants Herbert and Annabelle Wolfzahn alleged that on April 4, 1991 they purchased 1700 Warrants of Ann Taylor Holding, Inc. for \$11,521.00 from Respondent's PaineWebber, Inc. White Plains Office. Claimants further alleged that the terms of this transaction was to be an exchange of one warrant for one share of Ann Taylor Stock; however, when the stock was issued and only then, Claimants were informed that the exchange ratio would be 6 warrants to one share of stock. Claimants contended that Respondent is to be held responsible for this misrepresentation and they should be reimbursed for their losses.

Respondent PaineWebber Inc. by and through their in-house counsel Edward P. Dagenhardt maintained that Claimants Herbert and Annabelle Wolfzahn had separate accounts at PaineWebber, Inc. whereby Claimant Herbert Wolfzahn gave Respondent, by and through Harold Gross, Investment Executive an order to purchase Ann Taylor Warrants. Respondent further maintained that Claimant Herbert Wolfzahn then contacted his wife, Claimant Annabelle Wolfzahn to urge her to follow his action, which she did. Respondent contended that on May 2, 1991 the Wall Street Journal published an article on the Ann Taylor Warrants which discussed a split of the stock, whereby Mr. Gross investigated this matter and upon receipt of more information, Mr. Gross informed Claimants of this article and recommended they liquidate their warrants immediately, at which time, Claimants insisted on holding their positions in spite of the article and the advice of Mr. Gross. Respondents further contended that all proper disclosures were made to the Claimants, therefore, they are not responsible for any alleged losses.

RELIEF REQUESTED

Claimants, Herbert and Annabelle Wolfzahn requested \$8,121.00 in actual damages.

Respondent, PaineWebber Inc. requested the claim be dismissed in its entirety.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Ernest F. Marmorek, Esq. was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 4, 1992 and by the Respondent on October 5, 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. Respondent PaineWebber, Inc. is liable and shall pay to the Claimants Herbert and Wolfzahn the sum of \$2,125.00 in damages.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Herbert and Annabelle Wolfzahn shall be retained by the NASD, Inc. Respondent PaineWebber Inc. is liable and shall pay to the Claimants the sum of \$75.00 as partial reimbursement.

AFFIRMATION

I, Ernest F. Marmorek, 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.



Signature of Arbitrator

DATE OF DECISION: January 15, 1993