

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

PaineWebber, Inc.

vs.

92-02655

Name of Respondent

John D. Hufnagel

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 10, 1992, Claimant PaineWebber, Inc., through its in-house counsel, Joseph F. Generelli, Esq., alleged that Respondent John D. Hufnagel has failed to pay an unsecured debit balance he incurred when making various purchases in his account. The Claimant further alleged that the Respondent deposited a check for \$2,500.00 to cover the purchases, but the check was returned for insufficient funds, and that although it has made attempts to resolve this matter, the Respondent has made no payment to cover this debt.

Respondent John D. Hufnagel failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant PaineWebber, Inc. requested \$2501.41 in actual damages, plus interest, costs and attorney's fees.

Respondent John D. Hufnagel failed to file an Answer to the Statement of Claim.

OTHER ISSUES

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent John D. Hufnagel was served by regular and certified mail and given an opportunity to respond, which he failed to do. Service was effected as evidenced by certified mail packages of the claim and notification of the arbitrator's identity being returned marked "unclaimed". However, all packages were also sent through the regular course of mail and were not returned.
2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent John D. Hufnagel had notice of the claim and was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, G. Gale Roberson, Jr., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 31, 1992 but not signed by the Respondent as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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 John D. Hufnagel is liable and shall pay to Claimant PaineWebber, Inc. \$2,501.41 in actual damages, plus interest at the rate of 10% per annum from October 1, 1990 to the date of payment of the award.
2. Respondent John D. Hufnagel is liable and shall pay attorney's fees in the amount of \$250.14 to Claimant PaineWebber, Inc. pursuant to the Client Agreement existing between the Claimant and Respondent.
3. The parties shall bear their respective costs.

4. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondent John D. Hufnagel is liable and shall pay \$575.00 to the Claimant as reimbursement of the fee.

AFFIRMATION

I, G. GALE ROBERSON, JR., 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 21, 1993