

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Jane M. and Charles R. Lewin

92-02670

Name of Respondent

PaineWebber, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on August 11, 1992, Claimants Jane and Charles Lewin, who appeared Pro Se, alleged that Respondent PaineWebber, Inc., through its broker Timothy Mobley caused a loss when he sold their investments without their authorization or approval. These investments were Franklin Age High Income Fund, Franklin Option Fund Inc. and Franklin Cal Tax Free. The Claimants further alleged that they had been led to believe that these investments were to be transferred, not sold, and that they should be compensated for these losses caused by the Respondent.

Respondent PaineWebber, Inc., through its in-house counsel, Elyse A. Adrian, Esq., maintained that the sale of the Franklin investments were effected pursuant to the Claimants' instructions and authorization, and that no intentional misrepresentations were made to the Claimants. The Respondent further maintained that the value of the funds was the same, regardless of whether they were transferred or sold, and that the effect upon the Claimants would have been the same.

In a reply to the Statement of Answer, the Claimants refuted the defenses used by the Respondent and reiterated that they suffered damages because of the Respondent and wish to recover their losses.

**RELIEF REQUESTED**

Claimants Jane & Charles Lewin requested \$8,500.00 in actual damages.

Respondent PaineWebber, Inc. requested that the claims of the Claimants be dismissed, and that it be awarded costs.

**AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Raymond Prazen, 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 5, 1992 and by the Respondent on October 2, 1992.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted as follows:

1. The claims of the Claimants Jane & Charles Lewin against Respondent PaineWebber, Inc. are dismissed in their entirety.
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 shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **RAYMOND PRAZEN, 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: Apr 11 7, 1993