

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Jeffrey M. Azpbell, Trustee
First Trust & Company Money Purchase Pension Plan

92-03018

Name of Respondents

Kidder, Peabody & Co., Incorporated
Paul M. Yeakel

REPRESENTATION

Claimant Jeffrey M. Azpbell ("Claimant:") was represented by Anthony J. Hom, Attorney at Law.

Respondents Kidder Peabody & Co., Inc. ("Kidder") and Paul M. Yeakel ("Yeakel") were represented by: Thomas A. Dubbs, Attorney at Kidder Peabody & Co., Inc.

CASE INFORMATION

Statement of Claim filed on: September 8, 1992.

Claimant's Amended Statement of Claim filed on: February 17, 1993.

Claimant's Submission Agreement signed on: July 23, 1992.

Joint Statement of Answer by Respondents Kidder Peabody & Yeakel (collectively referred to as "Respondents") filed on: December 15, 1992.

Amended Joint Statement of Answer filed by Respondents on: April 6, 1993.

Respondent Kidder Peabody's Submission Agreement signed on: December 14, 1992.

Respondent Yeakel's Submission Agreement signed on: December 18, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: December 2, 1993, 2 sessions
December 17, 1993, 1 session

Hearing Location: Philadelphia, PA.

CASE SUMMARY

Claimant alleged that among other things, Respondents Kidder Peabody and Yeakel placed Claimant in unsuitable investments. Claimant alleged that Respondents wrongfully concentrated Claimant's investments in his pension plan account in two speculative securities -- Centocor and Roberts Pharmaceutical Corp. Claimant alleged that Yeakel made false representation on Centocor to induce Claimant to buy Centocor. Claimant alleged that Respondent failed to disclose material risks of associated with both investments. Claimant alleged that Kidder Peabody failed to properly supervise Claimant's account as well as the activities of Yeakel.

Respondents categorically denied all allegations of wrongdoing asserted by Claimant and specifically maintained that the investments in Centocor and Roberts Pharmaceutical were suitable. Respondents maintained that Claimant desired growth stocks in his pension plan. Respondents maintained that all risks were adequately disclosed to the Claimant. Respondents maintained that their was a reasonable basis for their recommendation.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$68,000 plus interests, attorney's fees, and costs.

Respondents requested that Claimant's claim be dismissed in its entirety and that Respondents be awarded forum fees and costs.

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 may 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 undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs, including legal fees, except as specifically provided herein.

FORUM FEES

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

3 hearing sessions x \$500 = \$1500

Claimant is entitled to offset this amount with his previously deposited hearing session fee of \$500.

The Panel has determined that the \$1000 in hearing session fees should be split equally between Claimant and Respondent Kidder Peabody; so that both parties are assessed \$500 in forum fees.

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

Concurring Arbitrator's Signature

Name

Public/Industry

Barbara A. Ash
Barbara A. Ash, Esq.

Public Arbitrator

NASD Date of Decision: January 24, 1994

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs, including legal fees, except as specifically provided herein.

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

Concurring Arbitrator's Signature

Name

Public/Industry


Malcolm J. Irving

Industry Arbitrator

NASD Date of Decision: January 27, 1994

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs, including legal fees, except as specifically provided herein.

FORUM FEES

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

Concurring Arbitrator's Signature

Name

Public/Industry


Roy B. Steenhoff

Public Arbitrator

NASD Date of Decision: January 27, 1994