

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

**Names of Claimants**

Dimitri C. Catsaros  
Dimitri and Linda Catsaros TTEES  
Dimitri Catsaros/Pension Plan

92-03220

**Name of Respondent**

PaineWebber, Inc.

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**REPRESENTATION**

Claimants, Dimitri and Linda Catsaros were represented by Daniel J. Brooks, Esq. of Layton, Brooks & Hecht, New York, New York.

Respondent, PaineWebber, Inc. was represented by Joseph A. Vallo, Esq. of PaineWebber, Inc., Weehawken, New Jersey.

**CASE INFORMATION**

The Statement of Claim was filed with the National Association of Securities Dealers, Inc. ("NASD") on September 24, 1992.

Claimant, Dimitri Catsaros' Submission Agreement was signed individually and as trustee on July 27, 1992. Claimant, Linda Catsaros' Submission Agreement was signed as trustee on July 27, 1992. Claimant, Dimitri Catsaros signed a Submission Agreement as President of the Dimitri C. Catsaros, M.D., P.A. Pension Plan on September 18, 1992.

The Statement of Answer was filed with the NASD by Respondent, PaineWebber, Inc. on November 24, 1992.

Respondent, PaineWebber, Inc.'s Submission Agreement was signed on November 20, 1992 by Joseph F. Generelli, Esq., Corporate Vice-President, Assistant General Counsel.

**HEARING INFORMATION**

The hearing date was September 21, 1993 and the hearing lasted for two (2) hearing sessions.

The hearing location was Scottsdale, Arizona.

**CASE SUMMARY**

Claimant, Dimitri Catsaros, M.D. ("Catsaros"), individually and as trustee with his wife Linda Catsaros and as President of his pension plan alleged that Respondent, PaineWebber, Inc. ("PaineWebber") through its broker Michael Athans, failed to execute an order to liquidate all three of the Catsaros accounts maintained at PaineWebber and to transfer the proceeds to a split annuity at John Hancock Financial Services. Catsaros allegedly requested the liquidation of his personal IRA account, the pension plan account and a family trust account in November of 1989 and it was not until January 24 and 25, 1990 that the accounts were liquidated. Because of this delay and a drop in the market, the liquidation resulted in a loss of \$40,377. Catsaros alleged that the loss was caused entirely by the refusal of Mr. Athans to follow Catsaros' explicit instructions, in November of 1989, to liquidate all three accounts. Catsaros alleged that PaineWebber was responsible for this clear breach of contract and of fiduciary duty owed to Catsaros as his agent and PaineWebber was also liable under the principles of respondeat superior for the wrongful conduct of Athans.

PaineWebber denied any liability predicated on the alleged failure of Athans to liquidate the Catsaros accounts maintained at PaineWebber. It was asserted by PaineWebber that Catsaros sought the advice of Athans regarding the purchase of the annuity at John Hancock Financial Services and that Catsaros told Athans not to liquidate the accounts until January of 1990. Athans was also trying to get a more favorable annuity rate with other companies and Catsaros knew the value of his portfolio was down because the stock market had declined 60 points. It was not until January 24, 1990 that Athans received a certified letter which was dated January 14, 1990, specifically directing Athans to liquidate the accounts. PaineWebber alleged that Catsaros clearly took a risk that his investments could decrease in value over the time period while he tried to obtain a higher rate annuity.

**RELIEF REQUESTED**

Catsaros requested an award of \$40,377.00 plus interest at the annual rate of 10% from November 28, 1989 and the costs and disbursements of this

proceeding.

PaineWebber requested dismissal of the claim in its entirety.

**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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. PaineWebber is liable and shall pay to Catsaros, the sum of Two Thousand Five Hundred Dollars and No Cents (\$2,500.00); and,
2. The parties are each to bear their respective costs of this proceeding including attorney's fees.

**FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed. The NASD shall retain the \$120.00 non-refundable claim filing fee and the \$400.00 hearing session deposit previously paid to the NASD by Catsaros. PaineWebber is directed to reimburse Catsaros for these sums and is assessed additional Forum Fees in the amount of \$400.00.

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Forum Fees were calculated at the rate of \$400.00 per hearing session for two (2) hearing sessions. Additional Forum Fees assessed to the parties are payable to the National Association of Securities Dealers, Inc.

**Concurring Arbitrators' Signatures**  
**Name**

Glenn C. Johnson, Esq. s/s November 2, 1993  
Glenn C. Johnson, Esq. Dated  
Presiding Chairperson  
Public Arbitrator

Howard S. Baldwin s/s November 1, 1993  
Howard S. Baldwin Dated  
Panelist  
Public Arbitrator

Sarah Catherine Whitmore s/s October 28, 1993  
Sarah Catherine Whitmore Dated  
Panelist  
Industry Arbitrator

**Date Award Served on the Parties by the NASD: November 22, 1993**