

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Loretta Eichenberg

92-03401

Name of Respondents

Kidder, Peabody & Co., Incorporated
Alphonso Becerra

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 7, 1992, Claimant Loretta Eichenberg, by and through her counsel Gayle J. Carson, Esq., Sole Practitioner, Brecksville, OH, alleged that Respondent Alphonso Becerra, Account Executive with Prudential Securities Incorporated, who later left their employ for Respondent Kidder Peabody & Co., Incorporated, made an inappropriate investment with her retirement funds with little opportunity for growth in Certificates of Deposits and an inappropriate investment of retirement funds in limited partnerships which have no liquidity; do not preserve capital and whose yield fluctuates. Claimant further alleged that Respondent Alphonso Becerra exercised little, if any, professional judgement in management or diversification of her account and he churned her account. Claimant contended that her account was too small to be appropriately marginable and Respondent Alphonso Becerra was guilty of technically incorrect activities involving cancellation of trades. Claimant further contended that her questions to Respondent Alphonso Becerra were not answered truthfully and that there was a consistent pattern of misleading and false statements. Claimant asserted that Respondent Kidder Peabody & Co., Incorporated did not properly supervise Respondent Alphonso Becerra's activities and it's monthly brokerage statements were misleading. Claimant further asserted that because of these actions she suffered a loss in her account.

Respondents Kidder Peabody & Co., Inc. and Alphonso Becerra, by and through their in-house counsel David Rivera, Esq., maintained that the securities which Claimant Loretta Eichenberg purchased while her account was held at Respondent Kidder Peabody & Co., Incorporated were not unsuitable and Respondents denied all of Claimant's allegations. Respondents further maintained that Claimant received all the necessary prospectuses and Respondents never made any misrepresentations, and there was no deception or any other inappropriate actions.

RELIEF REQUESTED

Claimant Loretta Eichenberg requested \$10,000.00 in actual damages plus interest and costs.

Respondents Kidder Peabody & Co., Incorporated and Alphonso Becerra 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, Gary M. Bash, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 25, 1992, by the Respondent Kidder Peabody & Co., Incorporated on December 29, 1992 and by the Respondent Alphonso Becerra on November 24, 1992.

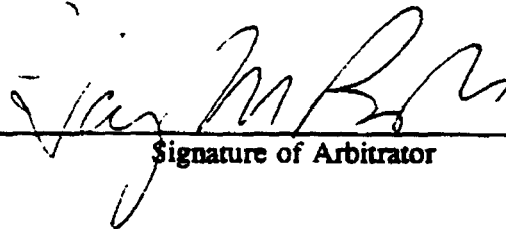
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Kidder Peabody & Co., Incorporated and Alphonso Becerra are jointly and severally liable and shall pay to the Claimant Loretta Eichenberg the sum of \$790.00 in damages.
2. The Claimant's request for interest is denied.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Loretta Eichenberg shall be retained by the NASD, Inc. Respondents Kidder Peabody & Co., Incorporated and Alphonso Becerra are jointly and severally liable and shall pay to the Claimant the sum of \$150.00 as reimbursement.

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AFFIRMATION

I, **GARY M. BASH, 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: May 18, 1993