

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Richard Peterson

92-03428

Name of Respondent

PaineWebber, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on October 9, 1992, Claimant Richard Peterson, who appeared Pro Se, alleged that on February 4, 1992, he signed a self explanatory "Letter of Instruction" to Respondent PaineWebber, Inc. for the delivery of 242 Centocor common certificates and cash. Claimant further alleged his broker, Jeff Ramsdell hand carried that letter of instruction to Respondent's office on 100 California Street. Claimant contended that some weeks later he spoke to Respondent's Branch Manager requesting the delivery once again, at which time, the items were again not transferred. Claimant further contended that as of September 4, 1992; following a second hand carried letter of instruction, after Respondent indicated they never received the request; Respondent once again failed to follow his instructions, thus, causing Claimant to incur losses.

Respondent PaineWebber, Inc., by and through their in-house counsel, Scott M. Ratchick, Esq., maintained that first and foremost, they were never given the "Letter of Instruction" which Claimant Richard Peterson alleged was "hand carried by his broker at Portsmouth Financial, Jeff Ramsdell, to Respondent's 100 California Street office" on February 4, 1992. Respondent further maintained that Claimant admits that when he discussed this matter with his then broker several weeks later, he was informed that Respondent had "never had his request". Respondent contended that the first time Claimant's broker Mr. Ramsdell ever presented them with a request to transfer the Centocor stock out of his account was on or about September 1, 1992, at which time, Mr. Ramsdell hand wrote the additional instructions, "or in the alternative, to Portsmouth Financial account, whichever is quickest, please", whereby, Respondent required Mr. Ramsdell to get Claimant to sign the document again, attesting to the added language; which was re-submitted on September 4, 1992. Respondent further contended

that on September 4, 1992 they transferred the Centocor stock out of Claimant's account. Respondent asserted that in sum, they maintain that they never received any instructions from Claimant, via Mr. Ramsdell or otherwise, in February 1992, and first received the written instructions to transfer in September, 1992. Respondent further asserted that Claimant relied on Mr. Ramsdell and Mr. Ramsdell failed to act in accordance with the request, thus, Respondent cannot be held liable for any losses Claimant may have incurred.

### **RELIEF REQUESTED**

Claimant Richard Peterson requested \$9,999.99 in actual damages.

Respondent PaineWebber, Inc. requested the claim be dismissed in it's entirety.

### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Gloria J. Edmonson, 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 29, 1992 and by the Respondent on March 2, 1993.


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. The claim of Claimant Richard Peterson against Respondent PaineWebber, Inc. is dismissed.
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 Claimant Richard Peterson shall be retained by the NASD, Inc.

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**AFFIRMATION**

I, **GLORIA J. EDMONSON**, 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:** April 8, 1993