

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Michelle Davis Schoenberger
Carl I. Schoenberger

92-03562

Name of Respondents

PaineWebber, Inc.
Raymond B. Harrison

REPRESENTATION

For Claimant Michelle Davis Schoenberger and Carl I. Schoenberger
("Claimants"): Carl I. Schoenberger

For Respondents PaineWebber, Inc. and Raymond B. Harrison
("Respondents"): Paul G. Thomas, Divisional Vice President, Litigation
Counsel for PaineWebber, Inc.

CASE INFORMATION

Statement of Claim filed: October 19, 1992

Claimant's Submission Agreement signed on: October 6, 1992

Joint Statement of Answer filed by Respondents on: January 8, 1993

Respondent PaineWebber, Inc.'s ("PaineWebber") Submission Agreement
signed on: January 5, 1993

Respondent Raymond B. Harrison ("Harrison") Submission Agreement signed
on: December 31, 1992

HEARING INFORMATION

Hearing Date/Sessions: August 12, 1993 - two sessions

Hearing Location: NASD Office in Washington, D.C.

CASE SUMMARY

Claimants alleged that they placed an order to sell 3000 shares of T2 Medical, Inc. ("T2"), Rule 144 restricted securities stocks, with the Respondents on February 14, 1992. Claimants alleged that due to an error by Respondents only 200 shares of T2 were cleared to be sold at that time. Claimants alleged that Respondent Harrison improperly executed Claimants orders thereby causing Claimants to suffer monetary damages. Claimants alleged that Respondents were negligent in the handling of their T2 restricted securities. Claimants alleged that Respondents were incompetent and deceitful. Claimants alleged that they relied on the representations of Respondents to protect Claimants best interest and that Respondents breach their duty of good faith and fair dealing.

Respondents maintained that Harrison properly executed the orders placed by Claimants. Respondents expressly denied all allegations of wrongdoing. Respondents maintained that as T2 was a restricted security, the restriction needed to be lifted prior to sale and the Claimants were advised that it would take one to two weeks to lift the restriction. Respondents maintained that Claimants had a bona fide intent to sell 1200 shares of T2 not 3000 shares as Claimants alleged. Respondents maintained that a seller of restricted securities, pursuant to the securities laws, must have a bona fide intent to sell restricted stocks before an order can be executed.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$22,500.00, accrued interest from February 14, 1992 to present.

Respondents requested that Claimants' claim be dismissed in its entirety and that all costs be assessed against Claimants.

OTHER ISSUES CONSIDERED & DECIDED

Claimants at the hearing made a request to bar the documents not delivered in compliance with Section 32(c) of the Code of Arbitration Procedures. The Presiding Arbitrator decided that all but one document would be allowed into the record and the final document came into the record as a rebuttal document.

Respondents made a motion at the hearing to dismiss all claims against Harrison, the Presiding Arbitrator ruled to defer his ruling on this motion until the award

was rendered.

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 Respondent PaineWebber is liable to the Claimants and shall pay to the Claimants the sum of \$15,000; no interest is awarded on this amount.
2. That all claims against Respondent Harrison are denied in their entirety.
3. That the parties shall bear their respective costs except as specified herein.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed.

2 hearings x \$300 = \$600

The Presiding Arbitrator has ruled that forum fees shall be equally split between the parties. Claimants are assessed forum fees in the amount of \$300, however, they are entitled to offset this amount with their hearing session deposit previously filed so that no more monies are due from Claimants.

Respondents are assessed forum fees in the amount of \$300.

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

Arbitrator's Signature
Name

Public/Industry

Michael Fischetti
Michael Fischetti

Public

Date of Decision: August 18, 1993