

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Anne W. Ford

**NASD Arbitration
No.92-03905**

Name of Respondent(s)

Kidder, Peabody & Co., Inc.

REPRESENTATION

For Claimant: Reed H. Bement, Esq., San Francisco, California

For Respondent: William H. Phelps, Esq., Kidder, Peabody & Co., Inc., Los Angeles, California

CASE INFORMATION

Statement of Claim filed: November 17, 1992

Claimant's Submission Agreement signed: October 5, 1992

Statement of Answer filed: January 26, 1993

Respondent's Submission Agreement signed: January 25, 1993

HEARING INFORMATION

Hearing Dates/Sessions:

August 17, 1993	-	2 sessions
August 18, 1993	-	2 sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged Respondent violated NASD rules and breached the duties and obligations it owed to her under the laws of the state of California by failing to obtain information concerning her investment objectives and financial status, by failing to monitor the trading done in the account by Claimant's investment manager, by failing to adhere to the terms of the agreement for investment management services between Claimant and Phelan Capital and allowing checks and wires to be delivered out of the account on the instructions of Phelan Capital, by paying fees to Phelan Capital in excess of the fees called for by the investment management agreement and by failing to monitor the account to ascertain that suitable investments were being placed in the account by Phelan Capital Management.

Respondent denied the allegations, and asserted that it held Claimant's account on a custodial basis only, and on the same basis as other accounts handled by outside money managers. Respondent further asserted that it had no obligation to monitor the transactions and investment strategies employed for Claimant by her outside money manager.

RELIEF REQUESTED

Claimant requested damages of \$427,000.00 plus interest at 7% per annum from October 31, 1991, for a total of \$481,000.00 in compensatory damages, plus attorney's fees and punitive damages.

Respondent requested dismissal of all claims.

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. All claims, including the claim for punitive damages, are dismissed in their entirety.
2. The parties shall each bear their own costs, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the forum fees are to be divided as follows:

Total fees:		
4 sessions @ \$750 / session	=	\$3,000.00
Claimant's one-half share	=	\$1,500.00
Credit for deposit	=	\$ 750.00
Balance due	=	\$ 750.00