

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

9503065

In the Matter of the Arbitration Between

Name of Claimant

Donna L. Marvin

92-04285

Name of Respondents

Kidder, Peabody & Co., Incorporated
Shearson Lehman Brothers, Inc.
Steven Siegel
Adrian R. Verzaal

REPRESENTATION

For Claimant, Donna L. Marvin ("Marvin"): Robert H. Rex, Esq. of Dickenson, Murdock, Rex and Sloan, Boca Raton, Florida.

For Respondents, Kidder, Peabody & Co., Incorporated ("Kidder"), Steven Siegel ("Siegel") and Adrian R. Verzaal ("Verzaal"): Thomas A. Dubbs, Esq. and David Rivera, Esq. of Kidder Peabody, New York, NY.

CASE INFORMATION

Statement of Claim filed: 12/18/92.

Claimant's Submission Agreement signed on: 12/18/92.

A Joint Statement of Answer filed by Respondents, Kidder, Siegel and Verzaal on: 10/20/94.

Respondent, Kidder's Submission Agreement signed on: 10/20/94 by David Rivera on behalf of Kidder.

Respondent, Siegel's Submission Agreement signed on: 10/15/93.

Respondent, Verzaal's Submission Agreement signed on: 10/6/94.

HEARING INFORMATION

Hearing Dates/Sessions: 2/22/95-two (2) sessions.
2/23/95-two (2) sessions.

Hearing Location: Fort Lauderdale, Florida.

CASE SUMMARY

Claimant alleged that she entrusted Respondents, Kidder and Verzaal with practically her entire liquid net worth, representing the life insurance proceeds received upon the death of her husband; that having no experience with investments and never having more than a few thousand dollars saved, trusted and relied completely on Kidder, a reputable brokerage firm and Verzaal, its registered representative, to act in her best interests and make only suitable recommendations for her account. Claimant further alleged that Kidder and Verzaal failed her and recommended and invested \$40,000 of her funds, representing 30% of her account, in high risk, illiquid, highly unsuitable limited partnerships for someone of Claimant's financial situation and needs, and effected additional unsuitable purchases and sales in her account causing Claimant to suffer losses totaling \$54,886.

Respondents denied all allegations of wrong doing contained in the Statement of Claim and maintained that all investments purchased for Claimant were suitable and that she was provided with a prospectus with each such purchase that explained the risks of the investment. Further, Respondents alleged that Claimant did not suffer any damages while her account was at Kidder, and contended that the unsuitability and churning claims are barred by the applicable statutes of limitation.

RELIEF REQUESTED

Claimant requested an Award in excess of \$50,000 against Respondents, jointly and severally, for actual damages, plus punitive damages equal to not less than three times the amount of actual damages, plus costs, expenses and disbursements, including reasonable attorneys' fees and expert witness fees, and for such other relief as the Arbitration Panel deems just and proper.

Respondents requested that the claim be denied in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

1. Prior to the hearing, Claimant settled with Respondent, Shearson Lehman Brothers, Inc.
2. 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 and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Kidder, Siegel and Verzaal, are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimant's claims for punitive damages, costs, expenses, disbursements, expert witness fees and attorneys' fees are hereby denied.

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OTHER COSTS

The parties shall each bear their own costs incurred in connection with this proceeding including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$2,000.00 (\$500.00 X 4 hearing sessions).

1. Claimant is hereby assessed forum fees in the amount of \$500.00 for which the NASD shall retain the \$500.00 previously deposited by Claimant in full satisfaction thereof.
2. Respondents, Kidder, Siegel and Verzaal, are hereby jointly and severally assessed Forum Fees in the amount of \$1,500.00 payable to the NASD, Inc.
3. The NASD shall retain the non-refundable filing fee of \$150.00 paid by the Claimant.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/

Leo H. Kerns, Esq.

Public/Chair

/s/

Susan Jefferbaum

Public/Panelist

Dissenting Arbitrator's Signature

/s/

Lester H. Weinberg

Industry/Panelist

Date of Decision: March 24, 1995