

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Name of Claimant

F. Leroy Sater

No. 93-00625

Name of Respondent

Kidder, Peabody & Co., Incorporated

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REPRESENTATION OF PARTIES

For Claimant: Barry Estell, Esq. and John Miller, Esq., of Nygaard & Associates, Overland Park, Kansas.

For Respondent: Richard Kelly, Vice President, Associate General Counsel, Kidder,, Peabody & Co., Incorporated, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: February 18, 1993.

Claimant's Submission Agreement signed: January 7, 1993.

Statement of Answer filed by Respondent on or about: April 22, 1993.

Respondent's Submission Agreement signed on: April 21, 1993.

HEARING INFORMATION

Pre-Hearing conference dates: September 22, 1993. One (1) session.

Hearing dates: September 29, 1993. Two (2) sessions.

Hearing Location: Kansas City, Missouri.

CASE SUMMARY

Claimant, F. Leroy Sater ("Claimant") alleged: A violation of the Missouri Merchandising Practices Act; fraud and misrepresentations; negligence; breach of contract and violation of NASD Rules; breach of fiduciary duty; and violation of Federal and Missouri Securities Acts by Respondent, Kidder, Peabody & Co., Incorporated ("Respondent"). The allegations arose out of transactions in RJR Nabisco Holdings debentures, Blackstone trust, and RJR Nabisco stock.

In its Answer, Respondent denied every allegation contained in the Statement of Claim, unless specifically admitted in its Answer. In addition, Respondent asserted that Claimant's unauthorized trading claim is barred by statute, that Claimant has overstated his damages, and that Claimant is not entitled to punitive damages and attorneys' fees.

RELIEF REQUESTED

Claimant requested rescission of all trades after the redemption of the Virginia housing bonds so that he would be restored to his original position of \$80,000.00 face value of RJR Nabisco debentures. In the alternative, Claimant requested an award of damages of the difference between his selling price of \$25,000.00 and the market price on the day of the hearing. Claimant also requested an award of punitive damages, a refund of commissions paid, attorneys' fees, expenses and interest.

Respondent requested that the Statement of Claim be dismissed in its entirety and the fees associated with the claim be assessed against the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by 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 original(s) 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. Claimant, F. Leroy Sater's claims against Kidder, Peabody & Co., Incorporated are hereby denied and dismissed with prejudice.

OTHER COSTS

Each party shall pay their own costs associated with this arbitration, including attorneys' fees, except as set forth more fully below.

FORUM FEES

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

1 pre-hearing conference session x \$300.00 = \$300.00

3 hearing sessions x \$500.00 = \$1,500.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$150.00, and shall retain the hearing session deposit in the amount of \$500.00 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$400.00 are assessed against the Claimant.

Additional forum fees in the amount of \$900.00 are assessed against the Respondent.

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

CONCURRING ARBITRATORS

Dated:

Name:

September 30, 1993

/s/Murray S. Levin  
Murray S. Levin  
Presiding Chair  
Public Arbitrator

September 30, 1993

/s/Richard D. Dvorak  
Richard D. Dvorak  
Public Arbitrator

September 30, 1993

/s/John J. Sopinski  
John J. Sopinski  
Industry Arbitrator

Date of Service by the NASD: \_\_\_\_\_