

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Dale VanCleave

NASD Arbitration

No. 93-00829

Name of Respondent(s)

PaineWebber Incorporated
Edward Elliott

REPRESENTATION

For Claimant: Richard Sacks, Investors Recovery Services, Novato, California

For Respondents: Scott M. Ratchick, Esq., PaineWebber Incorporated, Los Angeles, California

CASE INFORMATION

Statement of Claim filed: March 4, 1993

Claimant's Submission Agreement signed: January 28, 1993

Joint Statement of Answer filed by Respondents: July 1, 1993

Respondent PaineWebber Incorporated's Submission Agreement signed: July 6, 1993

Respondent Edward Elliott did not file a Submission Agreement. However, he appeared at the hearing and is subject to National Association of Securities Dealers, Inc. (NASD) jurisdiction in accordance with Section 12 of the Code of Arbitration Procedure.

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): November 30, 1993 (two sessions)
December 1, 1993 (one session)

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged that his investments in MFS Intermediate Income Fund, ACM Government Opportunity Fund and Blackrock Income Trust were inappropriate and inconsistent with Claimant's investment objectives. Claimant further alleged NASD Rule violations and breach of fiduciary duties with respect to his investments.

Respondents denied Claimant's allegations of wrongdoing and alleged that Claimant's Claim is false and frivolous and was filed solely for the purpose of harassing Respondents. Respondents further alleged that the recommendations by Elliott and the investments made in Claimant's account were suitable to satisfy Claimant's stated objectives. Respondents also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested damages in the amount of \$26,688.00 plus interest less any interest income received from Claimant's investments. Claimant also requested reasonable recovery fees and costs.

Respondents requested dismissal of Claimant's claims.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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. PaineWebber Incorporated is solely liable for and shall pay to Claimant the sum of \$17,000.00.
2. Claimant's claim for interest is denied.
3. All claims asserted against Edward Elliott are dismissed.
4. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$400.00 hearing session deposit previously deposited by the Claimant. Forum fees are to be split between the parties and are calculated and apportioned as follows:

Three hearing sessions @ \$400.00/session	=	\$1,200.00
Total fees assessed	=	\$1,200.00
Claimant's share (one-third)	=	\$ 400.00
Credit for hearing deposit	=	\$ 400.00
Balance due	=	\$ 0.00
PaineWebber Incorporated's share (two-thirds)	=	\$ 800.00
Balance due	=	\$ 800.00

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

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
John B. Reilley, Esq.	Public Arbitrator
Henry G. Wong	Public Arbitrator
Frank Weaver	Industry Arbitrator

Concurring Arbitrators' Signatures

John B. Reilley, Esq.

Henry G. Wong

Frank Weaver

Date of Decision: _____

Date Served: 12/28/93