

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants

NASD Arbitration
No. 93-01236

Manuel and Laura Rosen, individually and as Trustees

vs.

Name of Respondents

PaineWebber, Inc.
Thomas Candelaria

REPRESENTATION

For Claimants: James C. Krause, Esq. - San Diego, California

For Respondents: D. Scott Macrae, Esq. - Coronado, California

CASE INFORMATION

Statement of Claim filed: March 30, 1993

Claimants' Submission Agreement signed: March 19, 1993

Statement of Answer filed by Respondents: September 2, 1993

Submission Agreement signed by PaineWebber, Inc.: July 29, 1993

Submission Agreement signed by Thomas Candelaria: July 21, 1993

HEARING INFORMATION

Pre-Hearing Conference Date / Session: February 25, 1993 - One Session

Hearing Dates / Sessions: March 2, 1993 - Two Sessions
March 3, 1993 - Two Sessions

Hearing Location: San Diego, California

CASE SUMMARY

Claimants alleged that Respondents were negligent and violated the suitability rule by placing Claimants' asset portfolio in mortgage fund investments and certain speculative stocks.

Respondents alleged that Claimants were advised to sell the mortgage funds when the interest rates were declining, however such advise was not heeded by Claimants. Respondents also alleged that the purchase of the stocks at issue was recommended on sound research and that the investments represented a relatively small portion of Claimants' portfolio.

RELIEF REQUESTED

Claimants seek to recover damages in the amount of \$275,991.59 plus costs.

Respondents seek dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents brought a pre-hearing motion to dismiss on the grounds that the Claimants executed a Mutual Release and Settlement Agreement which released Respondents of any liability.

After reviewing the filings by the parties and hearing oral arguments relating to the above motion, the panel took the motion under advisement and ordered that the hearing proceed.

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 original remains 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. Each and every claim of Claimants, Manuel and Laura Rosen, individually and as Trustees against Respondent, Painewebber, Inc. is dismissed.
2. Each and every claim of Claimants, Manuel and Laura Rosen, individually and as Trustees, against Respondent, Thomas Candelaria, is dismissed.
3. The parties shall each bear their respective costs and fees, including attorneys' fees.

FORUM FEES

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

1. Claimants, Manuel and Laura Rosen are assessed the sum of \$1,650.00 representing one-half of the total of \$3,300.00 assessed for one pre-hearing conference at \$300.00 and four hearing sessions at \$750.00 each.
2. Respondents, Painewebber, Inc. and Thomas Candelaria are jointly and severally assessed the sum of \$1,650.00 representing one-half of the fees assessed by the panel.

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

ARBITRATORS

Name

George Hubner
Robert A. Yates
William D. Randolph

Public / Industry

Public Arbitrator
Industry Arbitrator
Public Arbitrator

Concurring Arbitrators' Signatures

George Hubner



Robert A. Yates

William D. Randolph

Served 4/5/94

Date of Decision: 3/31/94