

**NATIONAL ASSOCIATION OF SECURITIES DEALERS
AWARD**

In the Matter of the Arbitration Between

Nancy E. Carlson

Claimants

v.

NASD No. 93-1567

PaineWebber, Inc.

Respondents

Representation

For Claimant: John Fairbrook, Esq., of Burger & Plavan, Sacramento, CA

For Respondent: Gary Gleason, Esq., of Keesal, Young & Logan of San Francisco, CA

Case Information

Statement of Claim filed: April 20, 1993

Claimant's Submission Agreement signed: March 26, 1993

Statement of Answer filed on: August 31, 1993

Respondent's Submission Agreement signed on: July 12, 1993

Hearing Information

Prehearing Conference Date(s)/Sessions: None

Hearing Date/Sessions: February 3, 1994/two, February 4, 1994/two, February 28, 1994/three.

Hearing Location: San Francisco, CA

Case Summary

Claimant alleged:

Negligence, breach of fiduciary duty and professional malpractice as a result of the delay in the transfer of securities accounts. Claimant is the widow of Richard Carlson, who was a member of the Board of Directors of Bancorp from 1982 to 1990. In or about 1985, the Carlsons purchased a number of shares of stock issued by Bancorp (Shares). As a result of Richard Carlson's affiliation with Bancorp, a restriction was placed on the Shares which precluded their transfer. The Shares were deposited in several margin accounts (Accounts) with respondent. In August of 1990, Richard Carlson died, leaving his interest in the Accounts to claimant.

In January of 1992, respondent was requested to combine the Accounts, transfer the Accounts in the name of claimant and transfer the remaining Shares to claimant's individual account. Claimant also requested change in the title of the Accounts and the removal of the restrictions on the Shares. During the late spring and early summer of 1992, the value of the Shares dropped dramatically. The Shares were not transferred until some time in July 1992.

Respondent generally and specifically denied each and every substantive allegation in the Statement of Claim and alleged:

Throughout the history of claimant's account, respondent properly responded to every request for action it received from claimant. Claimant never requested that the Bancorp Shares be sold. The failure of claimant to obtain the price she wanted for the Shares resulted from her own inaction. Claimant never expressed any displeasure regarding the transfer of Shares until after their price began to decline in June 1992.

Claimant and her husband were experienced business people, who had the knowledge and experience to run a successful business. They were both aware that their investment in the Shares was at risk due to the public's perception of the bank's stability and events which affected the bank's profitability. Furthermore, the Shares were purchased primarily as a result of their involvement with the bank, rather than as an outright investment. Both claimant and her husband were aware of the restrictions on the Shares and that their ability to sell them was very limited.

Relief Requested

Claimant requested:

1. Damages according to proof;
2. Exemplary damages;
3. Attorneys' fees and costs;
4. Prejudgment interest according to proof;
5. Such further relief as deemed proper.

Other Issues Considered and 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. Respondent is liable for and shall pay claimant \$30,000;
2. All other claims, including the claim for exemplary damages, are denied;
3. The parties shall each bear their respective attorney's fees;
4. The parties shall each bear their respective costs.

Other Costs

None.

Forum Fees

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$1,000 hearing session deposit previously paid by the claimant. Forum fees are assessed against:

PaineWebber, Inc. for \$1,000

calculated as follows: seven hearing sessions at \$1,000 /hearing session, equals \$7,000 in forum fees which may be assessed. The panel assessed \$2,000 in forum fees to be split evenly by the parties. Claimant has already paid her portion as a hearing deposit.

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

Arbitration Panel

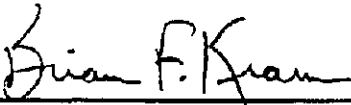
Name

Public/Industry

Brian Kram, Esq.
William T. Smales
Steven Vinje, Esq.

Public
Industry
Public

Concurring Arbitrators' Signatures



Brian Kram, Esq.

Steven Vinje, Esq.

Dissenting Arbitrator's Signature

William T. Smales

Date of Decision:

3/7/94

Date Served: 03/11/94