

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Rosalie and Louis Zinn

93-02745

Name of Respondents

Legg Mason Wood Walker, Inc.  
Carol Eisman

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 17, 1993, Claimants Rosalie and Louis Zinn, who appeared Pro Se, alleged that on August 3, 1992 they went to the offices of Respondent Legg Mason Wood Walker, Inc. to inquire about the Legg Mason Maryland Tax Free, Inc. Municipal Bond Fund at which time they were told to meet with Respondent Carol Eisman, registered representative. Claimants further alleged that they told Respondent Carol Eisman that they had a substantial investment in T. Rowe Price's "no load" Maryland Tax Free Fund whereby they were unequivocally assured by Respondent Carol Eisman that if they purchased Respondent's Legg Mason Wood Walker, Inc. Fund as opposed to T. Rowe Price's, Claimants would recoup the 2.5% sales charge, \$2,100.00, within one year. Claimants contended that Respondent Carol Eisman said this would be accomplished through the larger dividends from Respondent Legg Mason Wood Walker, Inc. as compared with T. Rowe Price's similar Bond Fund, at which time, Claimants told Respondent Carol Eisman that due to their ages 77 and 72, they did not want a long term commitment and since they trusted Respondent Carol Eisman's presentation to be accurate, in addition to the reputation of Respondent Legg Mason Wood Walker, Inc., Claimants brought in a check the following day for \$84,172.68. Claimants further contended shortly after receiving actual dividend information on their first statement of August 17, 1992, they determined that it would be impossible to make up the sales charge of \$2,100.00 within one year, and figured it would take almost seven years to make up the sales charges. Claimants asserted that consequently they met with Respondent Carol Eisman on August 31, 1992 whereby she was now unable to show them how she derived at her claim that the difference in dividend income between the two funds would overcome the sales of \$2,100.00 within one year and subsequently, on September 2, 1992 Claimants met with

Respondent Carol Eisman and Jon Pearl, Manager of Respondent Legg Mason Wood Walker, Inc. Pikesville office to express their dissatisfaction with the transaction, due to the misrepresentation. Claimants further asserted that Mr. Pearl indicated that it would take several years to make up the sales charges and Claimants stated that Respondent Carol Eisman never mentioned anything about a reduced sales charge (breakpoint) which might be applicable to their investment, at which time, Mr. Pearl agreed to look into the matter. Claimants further alleged that Respondent Legg Mason Wood Walker, Inc., by and through Mr. Pearl, responded in a letter dated September 4, 1992; however, the letter does not address their complaint regarding the misrepresentation relative to the recoupment of sales charges with one year via the difference in dividends as compared with T. Rowe Price. Claimants further contended Respondent Carol Eisman's misrepresentations of the advantage of the Fund and Respondent Legg Mason Wood Walker, Inc.'s failure to supervise, caused them to incur losses.

Respondents Legg Mason Wood Walker, Inc. and Carol Eisman, by and through their in-house counsel, Horace M. Lowman, Esq., maintained that on or about August 3, 1992, Claimants Rosalie and Louis Zinn came into Respondent Legg Mason Wood Walker, Inc. Pikesville office to inquire about the Legg Mason Fund and they were introduced to Respondent Carol Eisman, who was broker of the day, at which time, Claimants stated that they were aware of the sales charge on the Legg Mason Fund, currently had some money in the T. Rowe Price Maryland Tax-Free Bond Fund and were interested in knowing which fund would provide them with greater income. Respondents further maintained that Respondent Carol Eisman made several calls and was able to verify that the Legg Mason Fund would have an income advantage over the T. Rowe Fund whereby at the conclusion of the August 3, 1992 meeting, Respondent Carol Eisman gave Claimants a prospectus on the Legg Mason Maryland Tax-Free Income Trust. Respondents contended that during the August 3, 1992 meeting with Claimants, there was no representation made by Respondent Carol Eisman that the sales load would be recovered within one year, and subsequently on August 4, 1992, the day after the initial meeting, Claimants made a purchase of \$84,172.68, which included a sales load of \$1,678.95. Respondents further contended at a meeting on August 31, 1992 between Claimants and Respondent Carol Eisman, the subject of sales charges recovery was introduced and, discussed for the first time, at which time, Respondent Carol Eisman was surprised because such a comparison had never been done nor included with the initial or subsequent representation of the Legg Mason Fund. Respondents asserted that the meeting of September 2, 1992 between Claimants, Respondent Carol Eisman and Jon Pearl, Manager of Respondent Legg Mason Wood Walker, Inc. Pikesville office, reviewed the sales charge recovery and a reduced sales charge (breakpoint) applicable to the purchase, at which time, Mr. Pearl indicated that the recovery of the sales charge would take several years, and in Mr. Pearl's letter of September 4, 1992 indicated that, "...after extensive discussions with Eisman, and careful review of her notes pertaining to the aforementioned purchase, I can only conclude that Mrs. Eisman acted both professionally and in good faith in making her recommendation." Respondents further asserted that they believe that the Legg Mason Maryland Tax-Free Income Trust was properly represented to Claimants and that it met their objective of larger dividends as compared to the T. Rowe Fund, thus the claim should be denied.

**RELIEF REQUESTED**

Claimants Rosalie and Louis Zinn requested the sum of \$2,188.49 in actual damages.

Respondents Legg Mason Wood Walker, Inc. and Carol Eisman requested the claim be dismissed with prejudice.

**AWARD**

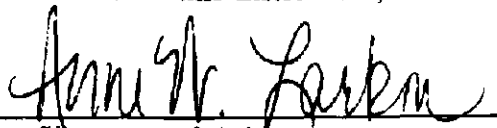
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Anne W. Larkin, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on July 6, 1993, by the Respondent Legg Mason Wood Walker, Inc. on August 20, 1993 and by the Respondent Carol Eisman on August 18, 1993.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimants Rosalie and Louis Zinn against Respondents Legg Mason Wood Walker, Inc. and Carol Eisman are dismissed.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Rosalie and Louis Zinn shall be retained by the NASD, Inc. Respondents Legg Mason Wood Walker, Inc. and Carol Eisman are jointly and severally liable and shall pay to the Claimants the sum of \$25.00, as partial reimbursement.

**AFFIRMATION**

I, ANNE W. LARKIN, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: November 1, 1993