

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Abraham Adelman and Phyllis Adilman, JTWROS

AWARD
93-02781

Name of Respondent

Kidder, Peabody & Co., Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 16, 1993, Claimants Abraham Adelman and Phyllis Adilman, who appeared Pro Se, alleged that Respondent Kidder, Peabody & Co., Inc., through its registered representative, Bruce Dyer, misled them into purchasing two securities, 300 shares of Puritan Bennett and 200 shares of Compaq Computer, which were not appropriate investments considering their investment history and knowledge. The Claimants also alleged that although Mr. Dyer was given explicit instructions to watch the securities closely and to liquidate them if the value decreased in order to minimize any losses, the Puritan Bennett stock had decreased over 50% in value in four months and had not been liquidated, and the Compaq stock had been disposed of in a call transaction. The Claimants further alleged that the Puritan Bennett investment was totally inappropriate for them, and that they should be compensated for losses they have incurred due to the wrongdoing of Respondent Kidder, Peabody & Co., Inc.

Respondent Kidder, Peabody & Co., Inc., through its in-house counsel, David Rivera, Esq., maintained that Claimant Adelman was a sophisticated investor who had experience in covered call writing, and that he made the decision to pursue this type of strategy after he had read about it, not that it was recommended to him by the firm. The Respondent further maintained that the Claimant did not instruct Mr. Dyer to take a loss as quickly as possible, and that it committed no wrong in this matter, and that therefore it cannot be held liable.

RELIEF REQUESTED

Claimants Abraham Adelman and Phyllis Adilman, JTWROS, requested \$4,000.00 in actual damages, plus \$5,000.00 in punitive damages.

Respondent Kidder, Peabody & Co., Inc. requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Simon J. Tager, 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 2, 1993 and by the Respondent on November 10, 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 the Claimants Abraham Adelman and Phyllis Adilman, JTWROS against Respondent Kidder, Peabody & Co., Inc. are dismissed in their entirety.
2. The Claimants' request for punitive damages is denied.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers Inc. by the Claimants shall be retained by the NASD.

AFFIRMATION

I, SIMON J. TAGER, 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.



Signature of Arbitrator

DATE OF DECISION: January 5, 1994