

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Alvin L. Lesser

93-03356

Name of Respondent

PaineWebber, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 26, 1993, Claimant Alvin L. Lesser, who appeared Pro Se, alleged that Respondent PaineWebber, Inc., through its account executive, Jeff Sena, made an unauthorized transfer from his original investment VL-CENT-FD2 to GRD CASH Fund, without his request or authorization after his son, Gary Lesser, instructed Jeff Sena to do so sometime in 1989, but he didn't discover the transfer until February 1993. The Claimant further alleged that he was never sent a confirmation of transfer which would have given him the opportunity to rescind it, or at least to be put on notice. Claimant Alvin L. Lesser contended that he never received a single, solitary notice advising him of his investment, and that Respondent PaineWebber, Inc. had no legal right to transfer any investment without his written consent, and further, that it compounded the error by not sending a confirmation nor account status reports. The Claimant further contended that he is entitled to recover damages he has suffered due to the carelessness of the Respondent.

Respondent PaineWebber, Inc., through its counsel Patricia Cowart, Esq., Miami, FL, maintained that although the Claimant alleges that he never authorized the transfer of his funds, on or about October 11, 1989, during a three way telephone conversation, including Jeff Sena and the Claimant's son, Gary Lesser, he did verbally direct Mr. Sena to transfer the entire value of the stock fund to a cash fund, and the transfer was completed immediately following the phone call. The Respondent further maintained that it maintained an adequate and reasonable system of supervision and control over its employees, and that it acted in good faith and did not induce any acts constituting a cause of action, and that therefore, it should not be held liable in this matter.

RELIEF REQUESTED

Claimant Alvin L. Lesser requested \$9,680.00 in actual damages.

Respondent PaineWebber, Inc. requested that the claims of the Claimant be dismissed.

AWARD

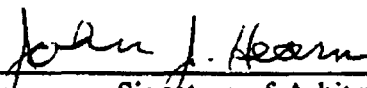
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John J. Hearn, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 17, 1993 and by the Respondent on December 1, 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 Claimant Alvin L. Lesser against Respondent PaineWebber, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, JOHN J. HEARN, 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 18, 1994