

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

**Name of Claimant(s)**

Linda Diann Bickford Hayes

NASD Arbitration  
No. 93-03506

**Name of Respondent(s)**

PaineWebber Incorporated  
Ken Horwitz

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**REPRESENTATION**

For Claimant: Linda Diann Bickford Hayes, Valdez, Alaska

For Respondents: Catherine J. Pratt, Esq., PaineWebber  
Incorporated, Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: August 23, 1993

Claimant's Submission Agreement signed: September 1, 1993

Joint Statement of Answer filed by Respondents: November 8, 1993

Submission Agreement signed by Respondent PaineWebber Incorporated:  
November 9, 1993

Respondent Ken Horwitz did not file a Submission Agreement. However, he appeared at the hearing and is subject to National Association of Securities Dealers, Inc. (NASD) jurisdiction in accordance with Section 12 of the NASD Code of Arbitration Procedure.

**HEARING INFORMATION**

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): July 28, 1994 (two sessions)

Hearing Location: Anchorage, Alaska

### CASE SUMMARY

Claimant alleged that she is not a sophisticated investor and that her Capital Construction Fund account suffered losses because of Respondents' mismanagement of Claimant's account. Claimant further alleged negligence with respect to her Pilgrim Prime Rate Trust (Pilgrim) investment and alleged violation of Article III, Section 2 of the NASD Rules of Fair Practice.

Respondents denied Claimants' allegations of wrongdoing and alleged that Claimant is attempting to make Respondents liable for the unforeseen drop in the price of Pilgrim which resulted from factors wholly beyond the control of Respondents. Respondents also asserted affirmative defenses.

### RELIEF REQUESTED

Claimant requested:

1. Compensatory damages in the amount of \$8,831.96;
2. Costs and attorneys' fees, as provided by state and federal law; and
3. Any other relief the presiding arbitrator deems just and proper.

Respondent requested dismissal of Claimant's Statement of Claim in its entirety.

### OTHER ISSUES CONSIDERED AND DECIDED

None.

### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims by Claimant are dismissed.
2. The parties shall each bear their respective costs including attorney's fees.

### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$200.00 hearing session deposit previously deposited by the Claimant. Forum fees are to be split between the parties and are

calculated as follows:

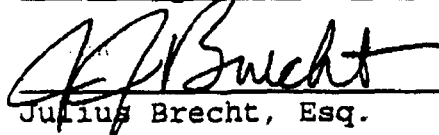
Two hearing sessions @ \$200.00/session	=	\$400.00
Total fees assessed	=	\$400.00
Claimant's share (50%)	=	\$200.00
Credit for hearing deposit	=	\$200.00
Balance due	=	\$ 0.00
Respondents' share, jointly and severally (50%)	=	\$200.00
Balance due	=	\$200.00

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

**PRESIDING ARBITRATOR**

Name \_\_\_\_\_ Public / Industry  
Julius Brecht, Esq. Public Arbitrator

Presiding Arbitrator's Signature

  
Julius Brecht, Esq.

Served 8/18/94

Date of Decision: 8/12/94