

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

William G. Davidson, III

93-03666

Name of Respondents

PaineWebber, Inc.  
Walter Bechtle

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REPRESENTATION

Claimant William G. Davidson, III ("Davidson") was represented at the hearing pro se.

Respondents PaineWebber, Inc. ("PaineWebber") and Walter Bechtle ("Bechtle") were represented at the hearing by Frederick D. Greco, Esq., of McLean, Virginia.

CASE INFORMATION

The Statement of Claim was filed with the NASD by Claimant Davidson on September 16, 1993. The Uniform Submission Agreement was signed by Davidson on September 14, 1993.

A joint Answer was filed by Respondents PaineWebber and Bechtle on November 11, 1993. The Uniform Submission Agreement was signed by Sarah G. Anderson, First Vice President, on behalf of PaineWebber on November 8, 1993. The Uniform Submission Agreement was signed by Bechtle on November 8, 1993.

Respondents filed an Amended Response on September 30, 1994.

HEARING INFORMATION

A Pre-Hearing Conference was held on October 27, 1994 with the Chair for a total of one (1) pre-hearing session.

The hearing was held on November 3, 1994 and November 4, 1994 in Washington, D.C. for a total of four (4) hearing sessions.

CASE SUMMARY

Claimant William G. Davidson, III alleged in his Statement of Claim that during the period from 1986 through 1991, Respondents exercised discretionary authority over Claimant's account, effected investments without the prior knowledge or approval of Claimant, effected investments that were unsuitable and inconsistent with the investment strategy, goals, and objectives of Claimant, made material misrepresentations of fact and failed to make disclosures relating to the riskiness of certain investments. Claimant alleged that Respondents' actions constituted violations of Article III Section 2 of the NASD Rules of Fair Practice, and Section 10(b) of the Securities and Exchange Act of

1934 ("the Exchange Act") and Rule 10b-5 promulgated thereunder; common law fraud; negligent misrepresentation; and breach of contract.

Claimant further alleged that Respondent PaineWebber was liable for the actions of its employee, Respondent Bechtle, under the doctrine of Respondeat Superior; aided and abetted the alleged fraud committed by Respondent Bechtle; and failed to maintain proper supervisory and compliance procedures pursuant to Article III Section 27 of the NASD Rules of Fair Practice, and Section 15(b)(4)(E) of the Exchange Act.

Respondents in their Answer denied each and every substantive allegation contained in the Claim.

#### **RELIEF REQUESTED**

Claimant requested damages: compensatory, consequential and exemplary-punitive, as well as expenses and costs, including reasonable attorney's fees, in the total amount of \$100,000. Additionally, Claimant requested expenses and costs that were dispersed or incurred in prosecuting each and every count in the Statement of Claim.

Respondents requested in their Answer that the Statement of Claim be dismissed in its entirety, and that they be awarded their costs.

#### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies. The parties have also agreed to receive conformed copies of the Award while the original remains 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. The Statement of Claim filed by Claimant William G. Davidson, III, is denied and dismissed in its entirety.
2. Each of the parties shall bear their own costs and expenses incurred, other than those specifically provided for herein.
3. Any relief not specifically provided for herein is denied.

#### **FORUM FEES**

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following Forum Fees are assessed:

1 pre-hearing session x \$300 = \$300.  
4 hearing sessions x \$500 = \$2,000.

Pursuant to Section 43(c) of the Code, the NASD shall retain the non-refundable filing fee in the

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amount of \$150, and the hearing session deposit in the amount of \$500 previously paid to the NASD by Claimant.

The panel has ordered that the Claimant pay additional forum fees to the NASD in the amount of \$500 and Respondents, jointly and severally, pay \$1,300 to the NASD.

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

**By The Arbitration Panel:**

Dated:

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William H. Malloy, Jr., Esq., Presiding  
Public Arbitrator

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Bruce Sanders  
Public Arbitrator

12/15/94

Catherine H. Hanks  
Catherine H. Hanks  
Industry Arbitrator

Date Award Served By the NASD: 12/27/94