

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

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

**Name of Claimants**

Angel De La Iglesia, Individually and as  
Trustee for Angel De La Iglesia IRA

93-05184

**Name of Respondents**

Kidder, Peabody & Co., Incorporated  
Albert Mathias Krohn, Jr.  
Theodore Walter Kilar

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**REPRESENTATION**

Claimants were represented at the hearing by William S. Shepherd, Esq.,  
Houston, Texas.

Respondents were represented at the hearing by Richard Kelly, Esq. of Kidder  
Peabody & Co., Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim was filed on December 16, 1993. Claimant's Submission  
Agreement was signed on December 6, 1993.

Joint Statement of Answer was filed by Respondents on March 29, 1994.  
Respondent, Kidder Peabody's Submission Agreement signed on: March 21,  
1994. Respondent Mathew Krohn's Submission Agreement signed on March 3,  
1994. Respondent Theodore Kilar's Submission Agreement signed on February  
15, 1994.

**HEARING INFORMATION**

Hearing dates: October 25, 1994 for two(2) sessions and October 26, 1994 for  
three(3) sessions for a total of five sessions.

Hearing Location: Houston, Texas.

### **CASE SUMMARY**

Claimant, in his original Statement of Claim, alleged that Respondents Kidder Peabody, Matthew Krohn, and Theodore Kiler, violated the Texas Deceptive Trade Practices Act, violated the Federal Securities Exchange Act, violated RICO and violated the Employee Retirement Income Security Act. In addition, claimant further alleged that Respondents committed fraud and negligent misrepresentation, civil conspiracy under the laws of Texas, breached their fiduciary duty, and breached their duty of good faith and fair dealing.

More specifically, claimant alleged that he rolled over more than two million dollars of stocks and certificates of deposits to Kidder based on Kiler's representations. Claimant alleged that contrary to his explicit instructions that high-quality bonds with interest and principle would be rolled into more high-quality bonds, Respondents invested in stocks, alleged to be without authorization. The following stocks were alleged to be purchased without authorization: Waste Management, Phillip Morris, Johnson & Johnson, Abbott Laboratory, Marck Corp., Exxon Corp., CPC International, Ford Motor Co., T-2 Medical, and Federated Corp.

Respondents, in their joint Statement of Answer, stated that the claim has no merit. Respondents stated that they deny each and every allegation of wrongdoing. Respondents alleged that claimant agreed to each and every transaction before the trades were executed and there is no truth to the unauthorized trading claim. Respondents further alleged that claimant received confirmations for each individual trade and account statements reflecting the same trades at the end of each month.

### **RELIEF REQUESTED**

Claimants requested actual damages, interest, and attorney's fees in the amount of \$106,203.00 plus costs of the arbitration.

Respondents requested that the Statement of Claim be dismissed in its entirety and that costs and fees be assessed against claimant.

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

At the hearing held on October 25, 1994, claimant withdrew his claim for suitability, churning, and his claim based on the Employee Retirement Income Security Act.

The parties have agreed that the Award in this matter may be executed by counterpart copies or that a handwritten, signed Award may be entered. In either case, that parties have agreed to receive conformed copies of the award while the originals remain on file with the NASD.

It was stipulated and agreed that any claim for excess commissions, if any, was not to be considered, and that claimant was free to assert such claim at a later date.

**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 is denied;
2. Each of the parties shall bear their own costs and expenses, including attorney's fees, other than those specifically enumerated for herein.

**FORUM FEES**

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

5 hearing sessions x \$500.00 = \$2500.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$150.00 and shall retain the hearing session deposit in the amount of \$500.00 previously paid to the NASD by Claimants.

Claimants shall pay additional forum fees in the amount of \$500.00 to the NASD. Respondents shall jointly and severally pay to the NASD additional forum fees in the amount of \$1500.00.

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

By the Arbitration Panel:

Dated:

10-26-94

Leighton E. Moss, Esq.  
Leighton E. Moss, Esq.  
Presiding, Public Arbitrator

10-26-94

W. Merrill Glasgow  
W. Merrill Glasgow  
Public Arbitrator

10-26-94

Morris Rubin  
Morris Rubin  
Industry Arbitrator

Date Award Served By the NASD: November 16, 1994. (For NASD Use only)