

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Marie Lord

and

93-05326

Name of Respondents

**Alex Brown & Sons, Incorporated
J. Everett Airington**

REPRESENTATION OF PARTIES

Marie Lord ("Claimant") was represented by Lawrence R. Gelber, Esq., Beigel & Sandler, New York, New York.

Alex Brown & Sons, Incorporated ("Respondent Alex Brown") was represented by Daniel J. Donovan, Esq., Alex Brown & Sons, Incorporated, Baltimore, Maryland.

J. Everett Airington ("Respondent Airington") was represented by Daniel Jasica, Esq., Carrington, Coleman, Sloman & Blumenthal, Dallas, Texas. Prior to the commencement of the hearing sessions conducted in June, 1995, Daniel Jasica, Esq. and Carrington, Coleman, Sloman & Blumenthal, Dallas, Texas withdrew as counsel for Mr. Airington.

CASE INFORMATION

The Statement of Claim was filed on or about December 27, 1993. Submission Agreement of Claimant was signed December 20, 1993.

Statement of Answer was filed by Respondent Alex Brown & Sons, Incorporated on or about April 11, 1994. Submission Agreement of Respondent Alex Brown & Sons, Incorporated was signed on April 11, 1994 by Robert F. Price.

Statement of Answer was filed by Respondent J. Everett Airington on or about March 11, 1994. Submission Agreement of Respondent J. Everett Airington was signed on May 3, 1994.

HEARING INFORMATION

The hearing was held on Wednesday, October 26, 1994 for two (2) sessions and Thursday, October 27, 1994 for two (2) sessions, Monday, June 5, 1995 for two (2) sessions and Tuesday, June 6, 1995 for two (2) sessions in Dallas, Texas for a total of eight (8) sessions.

CASE SUMMARY

Claimant alleged that Respondents Alex Brown and Airington engaged in securities fraud under the Securities Exchange Act of 1934; engaged in common law fraud; breached their fiduciary duties to the Claimant; breached their duty of good faith and fair dealing; were negligent; breached their contract; violated RICO; and that Respondent Alex Brown failed to supervise Respondent Airington. Specifically, Claimant alleged that Respondent failed to properly inquire as to her investment objectives and needs; her financial status; her risk tolerance; and her market experience. It was alleged that the account was churned and that unsuitable investments were executed in the Claimant's account.

Respondent Alex Brown denied the allegations set forth in the Statement of Claim. Respondents specifically stated it relied on the information provided to it by the Claimant and on the Full Trading Authorization executed by the Claimant in favor of her husband. Respondent Alex Brown further stated that all transaction in the Claimant's account were expressly authorized by her or her husband and were consistent with the Claimant's investment objectives. Affirmative defenses including but not limited to the following were asserted by Respondent Alex Brown: the claims asserted are barred by the applicable statutes of limitations; authorization; ratification; failure to mitigate; and the claims asserted are barred by the doctrines of estoppel and waiver.

Respondent Airington denied the allegations set forth in the Statement of Claim and stated that all transactions were discussed with the Claimant's husband before they trades were entered. Respondent Airington also stated that the Claimant had ratified and confirmed all transactions in her account.

RELIEF REQUESTED

Claimant requested an award of compensatory damages in an amount to be determined at hearing, trebled under RICO, plus interest at the appropriate statutory rate, trebled under RICO, attorneys' fees, plus costs, fees and expenses of this action, plus punitive damages in an amount to be determined in the best judgment of the Panel, plus such other and further relief as the Panel deems just and proper.

Respondent Alex Brown requested that the claims asserted against it be denied in their entirety and that it be awarded its' costs and attorneys' fees.

Respondent Airington requested that the panel dismiss the claims asserted against him with prejudice and that he be awarded his costs.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. The parties have 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 and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent J. Everett Airington shall be and hereby is liable for and shall pay to the Claimant Marie Lord the sum of Seven thousand five hundred dollars (\$7,500).
2. Respondent Alex Brown & Sons, Incorporated shall be and hereby is liable for and shall pay to the Claimant Marie Lord the sum of Fifty thousand dollars (\$50,000).
3. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$600 per hearing session and \$300 for each prehearing conference, if any. There were eight (8) sessions x \$600 = \$4,800 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$250 and shall refund the hearing session deposit in the amount of \$600 previously deposited with the NASD by the Claimant.

Respondent Alex Brown & Sons, Inc. shall be and hereby is liable for and shall pay to the NASD the sum of \$4,800 for forum fees. Fees are payable to the National Association of Securities Dealers, Inc.

Concurring arbitrators:

Dated:

/s/ Harold Hawk Vanberg, Jr., Esq.

July 1, 1995

Harold Hawk Vanberg, Jr., Esq.
Public Arbitrator, Presiding Chair

/s/ Winston C. Fournier

July 5, 1995

Winston C. Fournier
Public Arbitrator

/s/ Lisa R. Browning, Esq.

July 6, 1995

Lisa R. Browning, Esq.
Industry Arbitrator