

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

PUBLIC

Name of Claimant

Gayle Kurk

94-00961

Name of Respondent

Thomas DeLaHunt

REPRESENTATION

Claimant Gayle Kurk appeared pro se.

Respondent Thomas DeLaHunt appeared pro se.

CASE INFORMATION

Claimant Gayle Kurk's Statement of Claim was filed on November 4, 1993.

Claimant Gayle Kurk's Submission Agreement was signed on March 10, 1994.

Respondent Thomas DeLaHunt's Statement of Answer was filed on May 5, 1994.

Respondent Thomas DeLaHunt's Uniform Submission Agreement was signed on May 3, 1994.

HEARING INFORMATION

Hearing Date/Session: November 17, 1994 / One Session

Hearing Location: NASD offices located in Atlanta, GA.

CASE SUMMARY

Claimant alleged that the Respondent made fraudulent misrepresentations, violated standards of good faith and fair dealing and churned her account. Claimant further alleged that she opened an account with Respondent at PaineWebber, Inc. in June of 1992 and she invested \$12,000.00 in "IDEA" Portfolio Securities and \$5,000.00 into a mutual fund which was consistent with her investment need of long-term growth and stability coupled with diversity.

Claimant further alleged that Respondent fraudulently misrepresented material facts and/or market conditions in order to pressure her into selling her stocks which in turn resulted in significant losses. Claimant further alleged that in 1992 Respondent informed Claimant that "new" government regulation would render her "Baby Bell" stocks valueless and that she should sell despite their strong past performance. Claimant alleged that this "new" government regulation never occurred and in fact the Baby Bells increased in price in the last year by 25%. Claimant further alleged that Respondent convinced her to sell her health-care stock, Medtronic, under the "scare tactic" that the Clinton health care reform would cause the value to sharply decline. Claimant alleged that Medtronic has not sharply declined and that the sale resulted in a loss. Claimant further alleged that during the course of an S.E.C. investigation concerning Respondent's behavior, Respondent lied and stated that Claimant requested that Respondent sell the Baby Bell Stocks.

Additionally, Claimant alleged that Respondent's high pressure sales tactics prompting Claimant to sell very secure stocks violated the standards of good faith and fair practice. Claimant further alleged that Respondent churned her account and in a seven-month period there were 50 transactions in Claimant's account which resulted in \$2,766.00 (approximately) in commissions for Respondent. Claimant conceded that she did go on several dates with Respondent; however, Claimant maintained that at the time of these transactions that she was not involved in an intimate relationship being that their last date was on June 26, 1992.

Respondent maintained that Claimant's claims are absolutely false and unfair. Respondent further maintained that Claimant was thoroughly aware of her investments and that the trading in Claimant's account was not excessive as the IDEAS portfolio consists of ten high quality growth companies that have a long history of increasing both earnings and dividends every year and with ten stocks to buy each time Claimant invested in the IDEAS portfolio, Claimant's two accounts created 21 transactions with the original positioning of the money. Respondent further maintained that Claimant requested that the Baby Bell Stocks