

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Caryl K. Arckey

94-01675

Name of Respondents

PaineWebber, Inc.
Robert A. Clark

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 5, 1994 Claimant Caryl K. Arckey, who appeared pro se, alleged that Respondents Robert A. Clark ("Clark") and PaineWebber, Inc. ("PW"), made misrepresentations and did not properly handle her account. Claimant further alleged that she met Respondent Clark in March of 1992 and, at his urging, reluctantly purchased 500 shares of VCRT stock. Claimant contended that after her purchase the stock continuously declined in value despite Clark's assurances that all would be fine. Claimant further contended that Clark quit his job at Respondent PW without informing her, and subsequently VCRT filed for bankruptcy in December of 1993, causing a loss for which Respondents should be held liable.

Respondents Robert A. Clark and PaineWebber, Inc., through their representative, Melanie S. Cherdack, Esq., of Miami, Florida, maintained that Claimant had significant investment experience and opened her account with the primary objective being speculation. Respondents further maintained that in January of 1993, Clark received an invitation to come to the home of Claimant, and was told that Claimant wished to open a brokerage account, and on January 31, 1992 Claimant purchased 500 shares of Attwoods PLC. Respondents contended that two months later, on March 19, 1992, Claimant purchased 500 shares of Videocart at 12 3/8, after receipt of a package of materials on Videocart from Clark. Respondents further contended that Claimant closed her account in November of 1992 and transferred out both her Attwoods and Videocart shares, and at this time, her Videocart investment was worth \$2,375.00. Respondents maintained that, approximately one year after Claimant closed out her PW account, Videocart filed for bankruptcy. Respondents further maintained that Claimant's mere

dissatisfaction with the performance of her investment does not entitle her to compensation, and Respondents should not be held liable for her loss.

RELIEF REQUESTED

Claimant Caryl K. Arckey, requested \$6,341.00 in actual damages, plus interest.

Respondents Robert A. Clark and PaineWebber, Inc., requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John P. Cullem, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 27, 1994, by the Respondent Robert A. Clark on September 8, 1994, and not by Respondent PaineWebber, Inc. as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

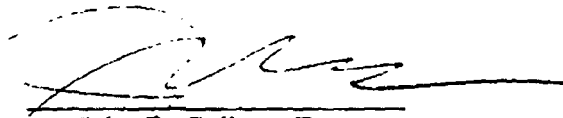
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Robert A. Clark and PaineWebber, Inc. are jointly and severally liable and shall pay to Claimant Caryl K. Arckey \$3,154.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Caryl K. Arckey, shall be retained by the NASD, Inc. Respondents Robert A. Clark and PaineWebber, Inc., are jointly and severally liable and shall pay to Claimant \$75.00 as partial reimbursement of the filing fee.

Page Three
Award 94-01675

AFFIRMATION

I, **JOHN P. CULLEM, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



John P. Cullem, Esq.

DATE OF DECISION: May 3, 1995