

**NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD**

---

In the matter of the Arbitration Between

Krieger Family Trust,  
Milton Krieger, Trustee

Claimant,

v.

NASD No. 94-01875

PaineWebber, Inc. and  
Dennis Ryan,

Respondents.

---

***Representation***

For Claimant: Pro se, Beverly Hills, California

For Respondents: Catherine Pratt, Esq., of PaineWebber, Inc., Los Angeles, California

***Case Information***

Statement of Claim filed: May 17, 1994

Claimant's Submission Agreement signed: May 13, 1994

Statement of Answer filed on: September 15, 1994

Respondents' Submission Agreement signed on: September 15, 1994

***Hearing Information***

Prehearing Conference Date(s)/Sessions: None

Hearing Date/Sessions: May 10, 1995/one

Hearing Location: Los Angeles, California

### ***Case Summary***

Claimant alleged lack of suitability and misrepresentation in the recommendation and purchase of Telecommunications, Inc. A (Telecom). Claimant was 82 years old and had been an investor in stocks and bonds for 25 years. His municipal bond portfolio amounted to approximately \$5,000,000 and stocks amounted to \$2,400,000. Respondent Dennis Ryan (Ryan) recommended Telecom based on its merger with Bell-Atlantic, (Bell) which did not take place and had only been pending. Ryan never mentioned that it was pending or Claimant would have ended the conversation on Telecom.

Respondents denied each and every claim of wrongdoing and alleged that Claimant had significant investment experience and understood and approved all the investments in his account. Telecom is the nation's largest cable operator. Respondent Ryan told Claimant that Telecom and Bell were merging based on press announcements and PaineWebber's analyst's comments. Ryan believed that Krieger knew or should have known that the merger had not yet been formalized. Despite his obvious disappointment in the Telecom loss, Claimant continued to trade with Ryan and purchased additional stocks from him through the end of April 1994.

### ***Relief Requested***

Claimant requested compensatory damages of \$9,265.

### ***Other Issues Considered and Decided***

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

### ***Award***

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim against Respondent PaineWebber, Inc. is dismissed;
2. Each and every claim against Respondent Ryan is dismissed;
3. The parties shall each bear their respective attorney's fees;

4. The parties shall each bear their respective costs.

Both Claimant and Respondent Dennis Ryan have been found to be trustworthy and credible witnesses, and in the absence of any corroborating evidence adduced by either party as to which of the contradictory contentions of the conversation in which the trade for Telecommunications, Inc. was placed is the more probable, the issue has to be decided by placing the burden of proof by a preponderance of the evidence upon Claimant, which he has not carried. Therefore, based upon this legal principle, the Award must be in favor of the opposing parties.

***Other Costs***

None.

***Forum Fees***

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$200 hearing session deposit previously paid by the claimant, \$100 of which Respondents are jointly and severally liable for and shall pay directly to Claimant. Forum fees are assessed against Claimant for \$100, already paid, and Respondents, jointly and severally for \$100, calculated as follows:

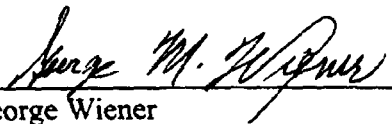
One hearing session at \$200/session	=	\$200
Claimant's assessment, already paid	=	\$100
Respondents' assessment, joint and several	=	\$100 to be paid directly to Claimant

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

***Arbitration Panel***

<b><i>Name</i></b>	<b><i>Public/Industry</i></b>
--------------------	-------------------------------

George Wiener	Public
---------------	--------

  
George Wiener

Served 5/25/95

***Date of Decision:*** MAY 22, 1995