

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Steven Rodney Snobeck

95-00153

Name of Respondents

Douglas A. Olsen
Peter C. King
Gerald J. Shaughnessy

Name of Third Party Claimant

Douglas A. Olsen

Name of Third Party Respondent

PaineWebber, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 10, 1995, Claimant Steven Rodney Snobeck ("Claimant"), who appeared Pro Se, alleged that Respondent Douglas A. Olsen ("Olsen"), recommended that he should invest in Classic Europe Growth Fund and he followed that advice to his detriment. Claimant further alleged that Olsen then recommended St. Jude Medical Stock which he bought and sold, on Olsen's advice, just before the stock increased in value. Claimant contended that Olsen also recommended that he should buy other stocks which also lost value due to changes in the marketplace. Claimant further contended that he contacted Respondent Gerald J. Shaughnessy ("Shaughnessy"), and informed him of the trading he had done with Olsen to which Shaughnessy responded "PaineWebber, Inc., was not in the business of writing checks" but recommended that he invest in an Initial Public

Offering ("IPO"), which he did and the stock increased in value. Claimant alleged that his broker was then changed to Respondent Peter C. King ("King"), who recommended he purchase Best Buy Co., which was to his detriment. Claimant further alleged that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondent Peter C. King, through his representative and in-house counsel, Alice K. Jump, Esq., at PaineWebber, Inc., located in Weehawken, NJ, maintained that he recommended that the Claimant should place his money in a mutual fund for long term growth which was rejected. Respondent further maintained that he responded to Claimant's instructions by recommending Best Buy Co., which had strong recommendations but which eventually fell in value. Respondent contended that he did not act as a guarantor against ordinary market losses and that as a result of the above, he should not be held liable.

Respondent Gerald J. Shaughnessy, failed to file an Answer to the Statement of Claim.

Respondent Douglas A. Olsen, through his representative Marvin Granath, Esq., of Granath & O'Donnell, located in St. Louis Park, MN, maintained that he was employed by PaineWebber, Inc. from October 21, 1986, to September 9, 1994, and was under the direct supervision of Shaughnessy during this period. Respondent further maintained that he relied exclusively on information provided by PaineWebber, Inc. while dealing with clients. Respondent contended that at all times he acted with care and prudence with respect to Claimant's account. Respondent further contended that he followed Claimant's instructions regarding which investment to buy and sell. Respondent further contended that as a result of the above, he should not be held liable.

Third Party Claimant Douglas A. Olsen, through his representative Marvin Granath, Esq., of Granath & O'Donnell, located in St. Louis Park, MN, alleged that Third Party Respondent PaineWebber, Inc., is liable for the claims made against him pursuant to Minnesota Statute Sec. 181.970. Third Party Claimant further alleged that at all times he acted in the performance of his duties while an employee of PaineWebber, Inc. Third Party Claimant contended that while an employee of PaineWebber, Inc., he was "not engaged in intentional misconduct, willful negligence of the duties of my position, or acting in bad faith," and that as a result of the above, the Third Party Respondent is liable.

Third Party Respondent PaineWebber, Inc. ("PWI"), through its representative and in-house counsel, Alice K. Jump, Esq., located in Weehawken, NJ, maintained that Olsen was its employee from 1986 through 1994 and was expected to abide by policies and procedures of the firm. PWI further maintained that it relied upon Olsen's determination that the information contained within the new account forms were accurate. PWI contended that Minnesota Statute Section 181.970 provides for indemnification only when an employee's actions fall within the scope of his employment. PWI further contended that Olsen is primarily liable since his acts were outside of the scope of his employment and as a result of the above, it should not be held liable.

RELIEF REQUESTED

Claimant Steven Rodney Snobeck, requested \$9,000.00 in actual damages.

Respondent Peter C. King, requested that the claims of the Claimant be dismissed.

Respondent Gerald J. Shaughnessy, failed to file an Answer to the Statement of Claim.

Respondent Douglas A. Olsen, requested that the claims of the Claimant be dismissed.

Third Party Claimant Douglas A. Olsen, requested that he be indemnified for the claims of the Claimant Steven Rodney Snobeck, plus costs and attorney's fees.

Third Party Respondent PaineWebber, Inc., requested that the claims of the Third Party Claimant be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

In accordance with Section 13 of the NASD Code of Arbitration Procedure, the Respondent Gerald J. Shaughnessy, was served by regular mail and was given an opportunity to respond, which he failed to do. In addition, an overdue answer notice was sent to the Respondent by certified mail and no signature card was returned.

Pursuant to the By-laws of the NASD, the Arbitrator determined that Respondent Gerald J. Shaughnessy, has notice of the claim, and was required to submit to this arbitration proceeding; and is, therefore, bound by the arbitrator's ruling and determination.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, James H. Colburn, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Steven Rodney Snobeck, on January 4, 1995, and by Third Party Respondent PaineWebber, Inc., on April 6, 1995, but not by Respondents Douglas A. Olsen, Peter C. King, and Gerald J. Shaughnessy, as required by Sections 8 and 10 of the NASD Code of Arbitration Procedure.

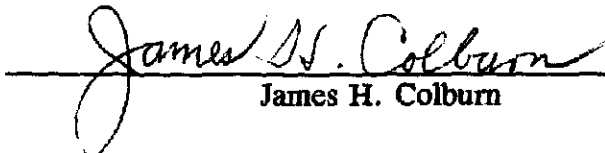
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Steven Rodney Snobeck, against Respondents Douglas A. Olsen, Peter C. King, and Gerald J. Shaughnessy, are dismissed in their entirety.

2. The claims of the Third Party Claimant Douglas A. Olsen, against Third Party Respondent PaineWebber, Inc., are dismissed in their entirety.
3. All other relief requests are denied.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Steven Rodney Snobeck, shall be retained by the NASD, Inc.
5. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Third Party Claimant Douglas A. Olsen, shall be retained by the NASD, Inc.

AFFIRMATION

I, JAMES H. COLBURN, 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.


James H. Colburn

DATE OF DECISION: September 29, 1995