

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Lou Katzman

95-02001

Name of Respondents

PaineWebber, Inc.
Marilyn Carter

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 26, 1995, Claimant, Lou Katzman, who appeared Pro Se, alleged that Respondents, PaineWebber, Inc. ("PWI") and Marilyn Carter-Larson ("Larson"), purchased securities for his account without authorization. Claimant further alleged that during October of 1993, he was solicited by Respondent Larson, a representative of Respondent PWI, to purchase stock in the Initial Public Offering of Gateway 2,000 ("Gateway"). Claimant contended that he sent a \$7,500.00 deposit to the Respondents and authorized the purchase of 500 shares of Gateway at a limit of \$18.00 per share. Claimant further contended that Respondents purchased 700 shares of Gateway at \$21.00 per share. Claimant alleged that when he refused to pay for this unauthorized purchase, Respondents sold out the Gateway stock causing him a loss of \$3,461.00. As a result of the above, Claimant alleged that he has suffered a loss for which Respondents should be held liable.

Respondents, PaineWebber, Inc. and Marilyn Carter-Larson, through their representative and in-house counsel, Lisa Catalano-Tillem, Esq., of PWI, maintained that Claimant told Larson that he wanted to purchase shares of Gateway on the IPO and asked Larson what the price was going to be on the offering. Respondents further maintained that Larson told Claimant that the anticipated price was between \$13.00 and \$15.00 per share and Claimant indicated that he wanted to invest \$15,000.00, thus, he wanted 1,000 shares on the offering. Respondents contended that to obtain a better chance of receiving shares on the IPO, Claimant opened an account with PWI with an initial deposit of \$7,500.00, one-half of what he intended to invest in the stock. Respondents further contended that the IPO occurred on December 7, 1993, but there were not enough shares to fill Claimant's order and Larson informed Claimant that PWI would be placing a block order the next day at a maximum price of \$22.00 per share. Respondents maintained that Claimant told Larson that he wanted to keep his investment at around \$15,000.00, so she should put him in a part of the block order for 700 shares and on December 8, 1993, the block order was entered and filled with Claimant purchasing 700 shares at \$21.00 per share. As a result of the above, Respondents maintained that they should not be held liable.

RELIEF REQUESTED

Claimant, Lou Katzman, requested \$3,461.00 in actual damages, plus interest and costs.

Respondents, PaineWebber, Inc. and Marilyn Carter-Larson, requested that the claims of the Claimant be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The Motion to Strike made by the Respondents, PaineWebber, Inc. and Marilyn Carter-Larson, was reviewed and considered by the Arbitrator. The Motion is hereby denied. All relevant documents and submissions were considered by the Arbitrator.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert Berkshire, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant, Lou Katzman, on February 7, 1995, and by the Respondent, Marilyn Carter-Larson, on June 30, 1995, 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, PaineWebber, Inc. and Marilyn Carter-Larson, are jointly and severally liable and shall pay to the Claimant, Lou Katzman, \$3,461.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Lou Katzman, shall be retained by the NASD, Inc. Respondents, PaineWebber, Inc. and Marilyn Carter-Larson, are jointly and severally liable and shall pay to the Claimant, Lou Katzman, \$125.00 as reimbursement of the filing fee.

AFFIRMATION

I, ROBERT BERKSHIRE, 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.


Robert Berkshire, Esq.

DATE OF DECISION: November 20, 1995