

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gwen Pike

95-03316

Name of Respondents

PaineWebber, Inc.
John C. Lester, Jr.
John C. Lester

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 11, 1995 Claimant Gwen Pike ("Claimant"), through her representative and counsel, Janice L. Innocenzi of Titus, Bueckner & Berry, P.C. of Scottsdale, Arizona, alleged that Respondent PaineWebber, Inc. ("PaineWebber"), through its account executive Respondent John C. Lester, Jr. ("Lester, Jr."), and Respondent John C. Lester ("Lester"), made misrepresentations and omissions in order to convince her to purchase and sell securities such as Northeast Utilities, Centerior Energy, Telefonos de Mexico and Tandy, among others. Claimant further alleged that her current account was at Equico but that Respondents opened an account for her at PaineWebber without her authorization. Claimant contended that Respondents made unsuitable recommendations that were not in accordance with her investment objectives. Claimant further contended that Respondents mismanaged her account by failing to inform her of the risks associated with foreign stocks. The Claimant further contended that Respondent PaineWebber Inc. failed to supervise its account executive Lester, Jr., and alleged that due to their negligence and wrongdoing, she has suffered a loss for which Respondents should be liable.

Respondents PaineWebber, Inc., and John C. Lester, Jr., through its representative and in-house counsel, Cara Aber, Esq., maintained that the securities purchased for Claimant's account were suitable given her objectives. Respondents further maintained that Claimant knew the authorized trades were to be executed through Respondent PaineWebber. Respondents contended that Lester, Jr., exercised due diligence and fully explained the risks of each recommendation to the Claimant. Respondents further contended that not only did Lester, Jr., cancel Claimant's authorized trades when requested, he also refunded the commissions as well. Respondents asserted that any damages to the Claimant were due to the fact that she chose to keep her Telefonos de Mexico stock after Lester, Jr., offered to cancel the trade, and further that they committed no wrongdoing, and therefore should not be held liable in this matter.

Respondent John C. Lester, who appeared Pro Se, maintained that Claimant's son recommended that he help Claimant with her investment accounts. Respondent Lester further maintained that he informed Claimant that he was no longer in management, but recommended his son, Lester, Jr., who was

experienced in that area. Respondent Lester contended that Respondent Lester, Jr., made some recommendations which Claimant authorized and knew would be executed through Respondent PaineWebber. Respondent Lester further contended that Claimant's son was unhappy with the investments so the trades that could be canceled were canceled. Respondent Lester asserted that the recommendations were suitable and all the risks were discussed. Respondent Lester also maintained that there was no misrepresentation or omission of material facts and as a result of the above, he should not be held liable in this matter.

RELIEF REQUESTED

Claimant Gwen Pike, requested \$9,297.10 in actual damages, plus interest.

Respondents PaineWebber, Inc., John C. Lester, Jr., and John C. Lester, requested that the claims of the Claimant be dismissed.

AWARD

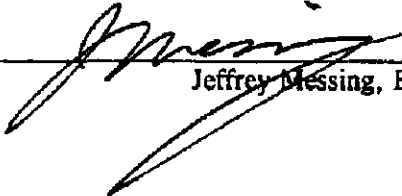
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jeffrey Messing, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Gwen Pike on June 21, 1995 and by the Respondents PaineWebber, Inc., on September 8, 1995, John C. Lester, Jr., on September 8, 1995 and by Respondent John C. Lester on August 25, 1995.

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 Gwen Pike against Respondents PaineWebber, Inc., John C. Lester, Jr., and John C. Lester are dismissed in their entirety.
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 shall be retained by the NASD, Inc.

AFFIRMATION

I, **JEFFREY MESSING, 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.



Jeffrey Messing, Esq.

DATE OF DECISION:

March 29, 1996