

## NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Jacqueline Faye Steffler

Claimant

NASD Arbitration

v.

No. 95-03534

Kidder Peabody & Co.

Carl F. Neuman

Respondents

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### REPRESENTATION OF PARTIES

Jacqueline Faye Steffler ("**Claimant**") was represented by Arthur S. Leider, Investors Arbitration Services.

Kidder Peabody, Inc. and Carl Neuman ("**Respondents**") were represented by William H. Phelps, Esq., PaineWebber, Inc., Los Angeles, California.

### CASE INFORMATION

Claimant's Statement of Claim was filed on or about July 21, 1995. Claimant's Submission Agreement was signed on July 19, 1995.

Respondent's Joint Statement of Answer was filed on or about September 25, 1995. The Submission Agreement for Kidder, Peabody and Co., Inc. was signed on September 22, 1995. The Submission Agreement for Carl Neuman was signed on September 28, 1995.

### HEARING INFORMATION

The hearing was held on May 29 and 30, 1996, in San Diego, California for a total of 4 sessions.

### CASE SUMMARY

Claimant alleged that Carl Neuman, as registered representative in his role as account executive at Kidder Peabody, fraudulently induced her to purchase investments which were inappropriate and lacked suitability. Claimant further alleged Respondent violated NASD rules, as well as state and federal securities laws. Claimant also alleged that Neuman was lacking appropriate supervision at Kidder Peabody and that Respondents took advantage of a position of trust to enrich Respondents at the expense of Claimant.

Respondent denied the allegations set forth in the Statement of Claim. Respondents specifically argued Claimant lacks any evidence to support fraud and that reasonable bases existed for Neuman's recommendations for investments. Respondents asserted Claimant made every decision to purchase or sell securities and by waiting years, ratified all transactions. Respondents contended that each and every investment was chosen by Claimant and was suitable for her. Respondents denied any investment was misrepresented to Claimant.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$106,196.42 in compensatory damages, interest income lost, attorney's fees and expenses and \$100,000.00 in punitive damages.

Respondents requested that the claims asserted against it be denied in its entirety and that she take nothing thereby.

### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

### **AWARD**

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

1. Claimant is awarded and Respondents, jointly and severally, shall pay to Claimant \$125,000.00 on condition that Claimant convey to the Respondents, jointly and severally, all her right, title, and interest in and to the Polaris Aircraft Income Fund V, a limited partnership("Polaris");
2. Claimant is awarded and Respondents, jointly and severally, shall pay to Claimant interest accruing at 9% per annum if the award amount cited above in (1.) is not paid within 30 days from conveyance of Claimant's interest in Polaris;
3. Claimants request for punitive damages is denied;
4. Parties to bear their own attorney fee's and costs.

### **FORUM FEES**

Forum fees are calculated at the rate of \$750 per hearing session and \$300 for each prehearing conference, if any. There were 4 hearing sessions x \$750.00 = \$3,000.00 in forum fees. Pursuant to Section 43 (b) of the Code of Arbitration Procedure, a hearing session is any meeting between

the parties and the arbitrator(s), including a prehearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to Section 43(c) the parties shall divide the forum fees 50%-50%, with the Claimant bearing 50% and the Respondents, jointly and severally, bearing 50%.

**Total Fees:**

4 Hearing Sessions @ \$750.00 =	\$3,000.00
<b>Total</b>	<b><u>\$3,000.00</u></b>

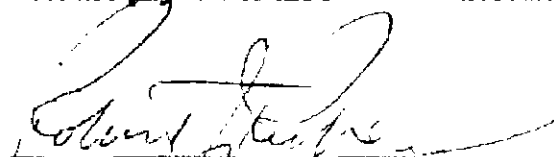
Claimant's 1/2 share	\$1,500.00
Claimant's credit for deposit	<u>\$ 750.00</u>
Claimant's balance	\$ 750.00

Respondents 1/2 share	<u>\$1,500.00</u>
Respondents Balance	\$1,500.00

Pursuant to §43(c) of the Code, the NASD shall **retain** the non-refundable filing fee in the amount of \$200 and shall **retain** as forum fees the hearing session deposit in the amount of \$750 previously deposited with the NASD by the Claimant Jacqueline Faye Steffler.

Pursuant to Section 45 of the Code, the NASD shall additionally collect the member surcharge fee in the amount of \$350.00 from Kidder Peabody and Co., Inc..

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



Robert J. Ruben, Esq.  
Public Arbitrator, Presiding Chair

Dated: \_\_\_\_\_

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George Hubner  
Public Arbitrator

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Lewis C. Brown  
Industry Arbitrator

Date Served: June 28, 1996

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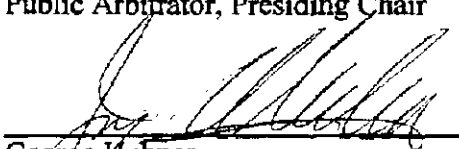
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Public Arbitrator, Presiding Chair

  
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George Hubner  
Public Arbitrator

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Lewis C. Brown  
Industry Arbitrator

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*June 17, 1996*  
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Dated: June 28, 1996

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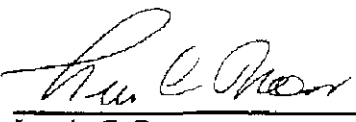
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Dated: June 28, 1996