

NASDR ARBITRATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION

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In the Matter of the Arbitration Between

Name of Claimant

Gayle Z. Herskovitz

95-03586

Name of Respondents

Ferris Baker & Watts, Inc.  
David F. Pac

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**REPRESENTATION**

Claimant Gayle Z. Herskovitz ("Claimant") was represented by David H. Zimmer, Attorney at Law, Potomac, Maryland.

Respondents Ferris, Baker Watts, Inc. ("FBW") and David F. Pac ("Pac") were represented by Theodore W. Urban, Executive Vice President and General Counsel, Ferris, Baker Watts, Inc., Washington, D.C.

**CASE INFORMATION**

Statement of Claim filed: July 24, 1995

Claimant's Submission Agreement signed on: July 20, 1995

Joint Statement of Answer filed by Respondents FBW and Pac (collectively referred to as "Respondents") on: September 18, 1995

FBW's Submission Agreement signed on: August 30, 1995

Pac's Submission Agreement signed on: September 8, 1995

**HEARING INFORMATION**

Hearing Date/Sessions: June 27, 1996 - two sessions

Hearing Location: Doubletree Hotel, Baltimore, MD

**CASE SUMMARY**

Claimant in her pleading alleged, among other things, that from 1990 through 1994 Pac mismanaged her account. Claimant alleged that Pac failed to properly explain what a warrant was and the risks associated in purchasing warrants. Claimant alleged that Pac guaranteed her that she would not lose money. Claimant alleged that in reliance on Pac's advise she purchased 600 shares of Hanson PLC ADR

Warrants ("Hanson"). Claimant alleged that her Hanson warrants expired worthless, and that when Claimant complained, Pac promised Claimant that he "would make it up to [her], even if the money came out of his own pocket." Claimant alleged that Respondents have failed to make her whole for her losses on the Hanson warrants.

Claimant further alleged that Pac recommended investments that were unsuitable for her given her investment objectives of conservative investments with low risks. Claimant alleged that Pac recommended that she purchase Noise Cancellation Technologies ("NCT") and failed to explain that it was a high risk investment. Claimant alleged that Pac switched her mutual fund from Dreyfus Capital Fund to Keystone Custodian Fund and Phoenix Capital Appreciation for no legitimate purpose but for Pac to obtain commissions.

Respondents categorically denied all allegations of wrongdoing alleged by Claimant. Respondents maintained in their pleading, among other things, that Pac carefully explained each and every investment to Claimant and that she decided in which securities to invest. Respondents maintained that the Hanson warrants expired worthless after Claimant failed to respond to numerous calls regarding the advisability of selling the warrants. Respondents maintained that Claimant's monthly account statements indicated that the warrants would expire worthless on September 30, 1994. Respondents maintained that Claimant failed to respond to Pac's telephone calls or take action to protect her interest on the warrants. Respondents denied Claimant's allegation of "switching" and maintained that Pac gave serious consideration to the basis for his recommendation to change funds; and, that his recommendation was consistent with Claimant's objectives and was accepted by Claimant. Respondents maintained that Pac, based on the research he obtained on NCT, recommended that Claimant use a small portion of her holdings to purchase NCT and she decided to follow Pac's recommendation. Respondents maintained that Pac served the investment needs of Claimant in a responsible and successful manner, consistent with her instructions and objectives.

#### RELIEF REQUESTED

Claimant requested actual damages in the amount of \$4,478.02 plus punitive damages in the amount of \$15,000, plus accrued interest.

Respondents requested that the Claimant's claim be dismissed in its entirety.

#### 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. That Claimant's claim is denied in its entirety.
2. That Claimant's claim for punitive damages and interest is denied in its entirety.
3. That the parties shall bear their respective costs and attorney's fees, except as forum fees are specifically addressed herein.

FORUM FEES

Pursuant to Rule 10332 (Old Section 43c) of the Code of Arbitration Procedure, the following forum fees are assessed.

2 sessions X \$300 = \$600 minus hearing session deposit of 300 = net \$300 due.

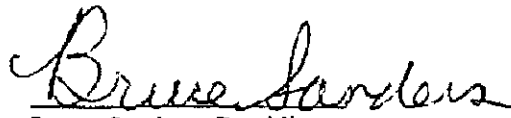
Outstanding forum fees are assessed against Claimant in the amount of \$300.

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

DATE

ARBITRATOR'S SIGNATURE

8/21/96

  
Bruce Sanders, Presiding  
Public Arbitrator

Date Award Served by the NASDR: August 21, 1996