

NASD REGULATION AWARD

961004

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION

In the Matter of the Arbitration Between

Name of Claimant

10/96

PaineWebber, Inc.

95-04450

© National Association of
Securities Dealers Inc.

Name of Respondent

1996

Edward A. Goldman

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REPRESENTATION

For Claimant PaineWebber, Inc. ("Claimant"): Thomas M. Mierswa, Jr., Corporate Vice President and Senior Litigation Counsel, PaineWebber, Inc., Weehawken, NJ.

For Respondent Edward A. Goldman ("Respondent"): Louis N. Joynes, II, Esq. and M. Todd Gerber, Esq. of the law firm of Joynes and Bieber, Virginia Beach, VA.

CASE INFORMATION

Statement of Claim filed: September 18, 1995.

Claimant's Reply filed: November 22, 1995.

Claimant's Submission Agreement executed by Evan J. Charkes, Corporate Vice President and Litigation Counsel of PaineWebber, Inc. on: September 13, 1995.

Statement of Answer and Counterclaim filed by Respondent on: November 1, 1995.

Respondent's Submission Agreement signed on: November 27, 1995.

HEARING INFORMATION

Prehearing Conference via telephone with the chairman: May 31, 1996 - one session

Hearing Dates/Sessions:

June 4, 1996 - two sessions

June 5, 1996 - two sessions

September 4, 1996 - two sessions

September 5, 1996 - three sessions

Hearing Location: Omni Hotel, Norfolk, Virginia

CASE SUMMARY

Claimant alleged that when Respondent was hired by Claimant, he signed a Promissory Note in the amount of \$111,092.00 as an up front bonus. Claimant alleged that the Promissory Note ("Note") was to be forgiven in four equal annual installments of \$27,773.00. Claimant alleged that Respondent also signed a second agreement which evidenced Respondent's understanding of and agreement to the conditions set forth in the note. Claimant alleged that when Respondent voluntarily resigned from Claimant he failed and refused to pay the portion of the Note that was due and owing. Claimant alleged

that it attempted unsuccessfully to resolve this matter amicably with Respondent.

Respondent maintained, among other things, that Claimant breached its contract with him by failing to provide services which reasonably met the industry standards. Respondent maintained that Claimant mishandled his clients accounts in numerous ways including the following: failed to credit interest and dividends to clients accounts in a timely fashion; delayed credits in matured or redeemed securities; charged clients margin interest even when clients had money market funds; settled trades in an untimely manner; claimed clients did not own securities they were trying to sell; overstated values of securities in clients' statements; failed to price or mispriced securities in clients' accounts.

Respondent maintained that he had numerous problems trying to straighten out each of his clients accounts. Respondent maintained that the numerous error of Claimant negatively impacted his ability to conduct business and ultimately lowered Respondent's compensation.

Respondent counterclaimed asserted, among other things, that Claimant induced Respondent to join its firm and promised Respondent services in accordance with industry standards. Respondent maintained that due to the numerous errors made by Claimant, it did not handle Respondents business in accordance with the industry standards. Respondent asserted that considerable time in his day was taken away from his sales efforts to correct errors caused by Claimant and to provide his clients with accurate information. Respondent maintained that Claimant failed to provide services to Respondent's clients in accordance with the industry standards that Respondent and his clients were accustomed. Respondent asserted that Claimant misrepresented its ability to handled Respondent and Respondent's clients needs and that these fraudulent representations induced Respondent to join Claimant. Respondent alleged that he relied on the fraudulent representation of Claimant to his detriment.

Respondent seeks an award from Claimant for damages resulting from the loss of clients, diminished income and damage to business reputation.

Claimant denied all the allegations of wrongdoing asserted by Respondent in his counterclaim. Claimant maintained that the services it provided Respondent met the industry standards.

RELIEF REQUESTED

Claimant requested an award in its favor in the amount of \$77,364.80, plus interest, together with attorneys' fees, costs and filing fees. Claimant also requested that Respondent's counterclaim be dismissed in its entirety.

Respondent requested that Claimant's claim be dismissed in its entirety and that he be awarded damages in the amount of \$250,000.00 together with attorneys' fees, costs and filing fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD Regulation, Inc. ("NASD Regulation").

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 follow,;

1. That Respondent is liable to Claimant and shall pay to Claimant the sum of \$64,803.48; plus interest. The interest rate is equal to the rate of interest announced from time to time by Citibank, N.A. in New York, New York as its prime rate of interest on loans to responsible and substantial commercial borrowers plus 2 % compounded monthly from March 1, 1995 to the date the award is paid.
2. Respondent's counterclaim is denied in its entirety.
3. The parties shall bear their respective costs and attorneys' fees except as forum fees are specifically addressed below.
4. Any and all relief not specifically addressed herein is denied in its entirety.

FORUM FEES

Pursuant to Rule 10205 of the Code of Arbitration Procedure, the following forum fees are assessed

$(9 \text{ hearing sessions} \times \$750) + (1 \text{ pre hearing session} \times \$300) = \$7,050.00$

Forum fees are assessed equally between Claimant and Respondent. Claimant is assessed forum fees in the amount of \$3,525. Claimant is entitled to offset this amount with its hearing session deposit of \$600 so that the amount due from Claimant is \$2,925. Respondent is assessed forum fees in the amount of \$3,525. Respondent is entitled to offset this amount with his hearing session deposit of \$750 previously filed so that the amount due from the Respondent as forum fees is \$2,775.

Fees are payable to the NASD Regulation, Inc.

Concurring Arbitrator's Signature

Name

Phillip R. Clark

Phillip R. Clark
Industry Arbitrator

Date signed by Arbitrator: 10/16/96

Date Award Served by the NASD Regulation: October 28, 1996

9610093

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Fees are payable to the NASD Regulation, Inc.

Concurring Arbitrator's Signature
Name


Stanley H. Ragle, Esq.
Industry Arbitrator

Date signed by Arbitrator: 10/21/96

Date Award Served by the NASD Regulation: October 28, 1996

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Fees are payable to the NASD Regulation, Inc.

Concurring Arbitrator's Signature

Name



Ronald T. Dilks
Industry Arbitrator

Date signed by Arbitrator: 10/23/96 6

Date Award Served by the NASD Regulation: October 28, 1996