

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Nancy J. Shaw

95-05740

Name of Respondents

PaineWebber, Inc.
Donald J. Busto

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on November 14, 1995 claimant Nancy J. Shaw ("Shaw"), who appeared Pro Se, alleged that respondents Donald J. Busto ("Busto") and PaineWebber, Inc. ("PaineWebber") took advantage of her. Claimant contended that Busto offered her R&D Partners III ("R&D" or "limited partnership") by telling her that it was a safe investment which would be a ten year offering that would return her \$10,000 investment with interest. Shaw also maintained that respondents took advantage of her financial naivete by failing to provide her with a prospectus on the limited partnership or with information about the offering, including its risky nature. According to Shaw, R&D was unsuitable for her in light of her investment experience and financial position. Claimant further contended that in January, 1995 she discovered that her shares were almost worthless and that there was no market for the limited partnership.

Respondents through their representative and in-house counsel Lisa Catalano Tillem alleged that based upon claimant's representations regarding her net worth and investment objectives, the limited partnership was suited to Shaw's needs and that Busto reasonably believed that the investment was suited to her needs. Respondents maintained that claimant stated that her investment objective was capital gains or capital appreciation and that Shaw was a savvy person who managed various properties, including commercial ones, for her family, and came from a wealthy family. In addition, respondents averred that Busto explained to Shaw that the investment could have growth opportunity but, that there was also significant risk, including risk of principal, that the investment was illiquid and that it was meant to be a long-term investment. Respondents further alleged that Busto provided Shaw with a prospectus which clearly set forth the potential risks and benefits of the investment.

RELIEF REQUESTED

Claimant Nancy J. Shaw requested \$10,000.00 in actual damages, reimbursement for expenses, costs and fees incurred, and upon an award in her favor, a ruling that her claim be added to Busto's CRD with the NASD.

Respondents PaineWebber, Inc. and Donald J. Busto requested an arbitration award:- dismissing Shaw's claim in its entirety; directing Shaw to reimburse respondents for reasonable expenses, costs, forum and other fees incurred in the defense of Shaw's claim; and upon an award in favor of respondents, a ruling by the panel that Shaw's claim be removed from Busto's CRD with the NASD.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator considered respondent Donald J. Busto's request that the claims of claimant Nancy J. Shaw be removed from his CRD with the NASD. The Arbitrator denied the request.

The Arbitrator considered respondents PaineWebber, Inc. and Donald Busto's Motion to Strike the claimant's May 23, 1996 submission. The Arbitrator denied the motion.

The Arbitrator considered respondents PaineWebber, Inc. and Donald Busto's Motion/Order to Compel claimant to produce documents and information. The Arbitrator denied the motion.

AWARD

Pursuant to Section 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Daniel C. Himelspace, was selected to review the matter in controversy between the parties set forth in submission to Arbitration signed by claimant Nancy J. Shaw on December 2, 1995, and by respondents PaineWebber Inc. on February 22, 1996 and Donald J. Busto on February 8, 1996.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues for determination as follows:

1. The claims of claimant Nancy J. Shaw against respondents PaineWebber and Busto are dismissed in their entirety.
2. All other relief requests are denied.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers regulation, Inc. by claimant shall be retained by the NASD Regulation, Inc. Respondents PaineWebber and Busto be and hereby are jointly and severally liable and shall pay to claimant Nancy J. Shaw the sum of \$75.00 as reimbursement for one-half of the filing fee.

AFFIRMATION

I, **Daniel C. Himelspace**, 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.


Daniel C. Himelspace

Date of Decision: January 17, 1997