

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Valerie V. Braybrooke

96-01670

Name of Respondents

Kidder, Peabody & Co., Incorporated
Stephen E. Brady

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on April 17, 1996, claimant Valerie V. Braybrooke ("claimant"), who appeared Pro Se, alleged that respondents Stephen E. Brady ("Brady") and Kidder, Peabody & Co., Incorporated ("Kidder") gave her inappropriate advice and withheld information that seriously jeopardized a substantial portion of her portfolio. Claimant further alleged that when she met with Brady she explained that her investment goals were to protect principal while harvesting the dividends and interest to augment her Veterans' benefits income. Claimant also alleged that she was a novice investor, who was convinced that Brady understood her situation and that he could be trusted in shaping up her portfolio.

Claimant asserted that in September 1994, Brady advised her that the bond market was bad, that yields have deteriorated and that she should promptly sell her KP Gov't Inc Fund that comprised 23% of her portfolio. Claimant further asserted that with the proceed Brady convinced her to purchase Virginia State municipal bonds ("VSM"), without explaining the downside of this purchase. Claimant also asserted that Brady told her that the purchase of VSM would be made in 5,000 lot increments. Claimant contended that a week later, she looked at her account statement and noticed that VSM had been bought in one \$40,000.00 chunk, not in increments. Claimant further contended that VSM was purchased on September 28 at 98.09 and on September 30 was valued at 94.472 for a two day plunge of 3.618 points.

Claimant also asserted that from mid-October 1994 she was out of the state and came back to a message requesting that she called Mr. Brady. Claimant alleged that when she called she was informed that Brady had left Kidder when it was sold. Claimant further alleged that with no broker to deal with it took a great deal of time to discover what had happened with her last purchase and what course of action she should take. Claimant also alleged that she cited additional facts outside of Kidder and learned that VSM bond was a 25-year bond which is too long-term for someone of her age; the VSM 6.15% interest rate was too low at the time when interest rates were rising and also when interest rate were higher in other securities. Claimant asserted that she spoke with Kidder's branch manager Doug Black ("Black") who challenged her docility in taking Brady's advice which he described as a reasonable recommendation. Claimant further asserted that black condemned her for waiting 60 days to complain and cited that 7 days would have been a reasonable reaction time.

Respondents through their representative and in-house counsel Pamela G. Armstrong maintained that claimant is a knowledgeable, experienced and attentive investor, who was given a very good and suitable recommendation by her broker for eight years. Respondents further maintained that claimants neglects to mention that she received over \$24,600.00 in interest during the time she owned KP Government Fund, well exceeding the \$4,500.00 loss that she claims to have suffered from the sale of the security. Respondents also maintained that Brady advised claimant to sell the fund not because of falling prices, but because the fixed income markets were experiencing unusual volatility and he felt that the fund had been underperforming compared to comparable funds. Respondents contended that Brady felt that claimant could have achieved the same or better yield with less risk of volatility than the fund. Respondents further contended that Brady recommended VSM which was rated AA by both S&P and Moody's, paying just over six percent Federal tax-free interest compared to the KP Government fund interest that was taxable.

Respondents also contended that Brady carefully explained the bonds to claimant, including yield, maturity, and tax-free status, and claimant agreed to purchase them. Respondents maintained that the plan was to hold these bonds as a long term investment and reap the income. Respondents further maintained that the bonds were not supposed to be bought in \$5,000.00 increments, because if they were bought in \$5,000 lots, they would have been likely to have cost the client more money, and no responsible broker would have recommended such a purchase plan under the circumstances.

Respondents also maintained that upon Brady's departure, claimant's accounts were assigned to Michael Massie ("Massie"). Respondents contended when claimant was not satisfied with Massie's answers she spoke with Black. Respondents further contended that Black explained to claimant why VSM was reasonable, and because claimant was so agitated he gave her a good will credit of half the commission earned by Brady back into her account. Respondents also contended that claimant on her own and not at the recommendation from them, sold VSM and took a tax loss for 1994. Respondent maintained that had claimant held the bond for a couple of months longer she would have seen the price fully recover.

RELIEF REQUESTED

Claimant Valerie V. Braybrooke requested \$4,611.00 from Stephen Brady for the loss taken on the Virginia State municipal bonds and \$4,508.00 from Kidder, Peabody & Co.

Respondents Kidder, Peabody & Co., and Stephen Brady requested that the claims of be dismissed in their entirety with all cost being assessed against claimant.

AWARD

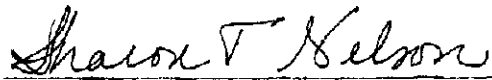
Pursuant to Section 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Sharon Nelson, was selected to review the matter in controversy between the parties set forth in submission to Arbitration signed by claimant Valerie V. Braybrooke on April 12, 1996, and by respondents Kidder, Peabody & Co. on July 8, 1996 and Stephen Brady on June 7, 1996.

And, the Arbitrator, have 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 Valerie V. Braybrooke against respondents Kidder, Peabody & Co. and Stephen Brady 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 Kidder Peabody and Stephen Brady be and hereby are jointly and severally liable and shall pay claimant the sum of \$75.00 as reimbursement for one half of the filing fee.

AFFIRMATION

I, **Sharon T. Nelson**, do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument which is my oath and award.


Sharon T. Nelson, Esq.

Date of Decision: December 6, 1996