

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Names of Claimants

Charles R. and Catherine A. Rhoades

96-02484

Names of Respondents

PaineWebber, Inc.
Donald J. Scott

REPRESENTATION

For Claimants Charles R. and Catherine A. Rhoades ("the Rhoades"): Lawrence D. Martin, Esq., Naples, Florida.

For Respondents PaineWebber, Inc. ("P.W.") and Donald J. Scott ("Scott"): Jeffrey A. Norman, Esq. of Kirkpatrick & Lockhart LLP, Miami, Florida.

CASE INFORMATION

Statement of Claim filed: June 7, 1996.

Claimants' Submission Agreements signed on: May 26, 1996.

Joint Statement of Answer filed by Respondents P.W. and Scott on: August 21, 1996.

Submission Agreement/Corporate Acknowledgment signed on: August 21, 1996 by Joseph F. Generelli on behalf of P.W.

Submission Agreement signed by Respondent Scott on: July 5, 1996.

HEARING INFORMATION

A hearing lasting two (2) sessions was conducted in Fort Lauderdale, Florida on March 10, 1997

CASE SUMMARY

Claimants alleged that they are an elderly couple in their eighties and that they brought this claim against their broker, Scott and his employer, P.W., for making an unauthorized purchase in their account of \$173,298.00 of the PaineWebber U.S. Government Income Fund-D on July 28, 1992.

Respondents denied all allegations of wrongdoing contained in Claimants' Statement of Claim and maintained that the trade at issue was discussed with and authorized by Claimants; that, in addition, Claimants' claims are barred by the running of applicable statutes of limitations, ratification, estoppel, assumption of risk and failure to mitigate.

RELIEF REQUESTED

Claimants requested damages in the amount of \$33,000.00 to compensate them for their out of pocket losses and loss of use of their funds since July 28, 1992 plus punitive damages and attorneys' fees.

Respondents requested that Claimants' claims be dismissed in their entirety.

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 NASD Regulation, Inc.

AWARD

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

1. Respondents P.W. and Scott are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimants' requests for punitive damages and attorneys' fees are hereby denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$800.00 (two (2) hearing sessions X \$400.00).

1. Claimants are hereby assessed forum fees in the amount of \$800.00 for which NASD Regulation, Inc. shall retain the \$400.00 previously deposited by Claimants in partial satisfaction thereof leaving a balance due to NASD Regulation, Inc. of \$400.00
2. Respondent P.W. shall pay to NASD Regulation, Inc. the \$200.00 member surcharge which it owes pursuant to Rule 10333 of the Code of Arbitration Procedure.
3. NASD Regulation, Inc. shall retain the \$120.00 non-refundable filing fee paid by the Claimants.

Fees are payable to the NASD Regulation, Inc.

ARBITRATION PANEL

Concurring Arbitrators' Signatures

/s/

Irene L. Lapidus, Esq.

Public/Chairperson

/s/

Madeleine B. Feldman

Public/Panelist

/s/

Gustavus L. Pearthree

Industry/Panelist

Date of Decision: April 17, 1997