

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

A. J. Low, Jr.

96-02923

Name of Respondent

Piper Jaffray Inc.

CASE SUMMARY

In a case filed with the National Association of Securities Dealers Regulation, Inc. on July 9, 1996, claimant A. J. Low, Jr. ("claimant"), who appeared Pro Se, alleged that respondent Piper Jaffray, Inc. ("Piper Jaffray") made unsuitable investment recommendation for his IRA account. Claimant further alleged that in 1992 Piper Jaffray sponsored a local seminar geared to retirees. Claimant also alleged that he was very impressed with their apparent attitude towards retirees and transferred his IRA account and his joint marital account to Piper Jaffray. Claimant asserted that the complaint arises in 1992, when his broker at Piper Jaffray recommended that he purchase 1874 shares of the American Opportunity Income Fund (the "Fund"). Claimant further asserted that in early 1995, he learned that the Fund contained derivatives and was not an investment at all suited to his conservative investment goals. Claimant also asserted that no one at Piper Jaffray ever offered this information. Claimant contended that a larger part of this complaint is what seemed to be a complete abandoning of him, while his broker was defecting to another brokerage in late 1994. Claimant further contended that the broker had promised period and as needed review of his two accounts, but no one ever got in touch with him.

Respondent Piper Jaffray through its representative and counsel Todd Noteboom of the law firm Leonard, Street and Deinard, located in St. Paul, Minnesota, maintained that the Fund is a "closed-end" investment company registered pursuant to the Investment Company Act of 1940. Respondent further maintained that unlike "open-end" investment companies, the number of shares in a "closed-end" fund is fixed at the time of the offering, and generally remains so through the lifetime of the fund. Respondent also maintained that "closed-end" funds are not obligated to redeem investors shares and are bought and sold only through the securities market.

Respondent contended that prior to the unprecedented interest rate hikes of 1994, the Fund performed extremely well. Respondent further contended that following the years of high performance, the Fund was caught in a unprecedented market crash described by the Wall Street Journal as a spring meltdown. Respondent also contended that beginning on February 4, 1994, the Federal Reserve increased the Federal Funds Rate six separate times, from 3.0% to 5.5%. Respondent maintained that the devastating increase in interest rates resulted in many hedge funds and investment banking firms deluging the market with mortgage-backed securities. Respondent further maintained that this unexpected influx of derivative securities increased dramatically the spread between the bid and ask price. Respondent also maintained by the third quarter of 1994, the market began to reconnect and the Fund began to show stable returns.

Respondent contended that the Fund's performance returns were disclosed to shareholders regularly in annual and semiannual reports.

Respondent further contended that claimant received a prospectus on the Fund, where shareholders were cautioned that no assurance could be given that the Fund's investment objectives would be achieved. Respondent also contended that in addition to the prospectus, claimant was sent a shareholders report and updated on a regular basis. Respondent maintained that in January 1993, one month after claimant invested in the Fund, was sent a shareholder letter specifically discussing the Fund's investment in derivative securities. Respondent further maintained that by January 1993, claimant knew that his investment may invest in various forms of mortgage-backed derivative securities and, that in certain market environments, the principal value of his investment could decline in value. Respondent also maintained that claimant was aware of precisely what was happening with his investment and of how market conditions were impacting his investment. Respondent contended that claimant has overstated his losses, because he had received \$8,009.00 in dividends from his investment in the Fund.

RELIEF REQUESTED

Claimant A. J. Low, Jr., requested \$10,000.00 in damages.

Respondent Piper Jaffray requested that the claims of claimant be dismissed in their entirety.

AWARD

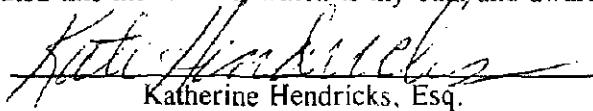
Pursuant to Rule 10302 of the Code of Arbitration Procedure, a single Public Arbitrator, Katherine Hendricks, was selected to review the matter in controversy between the parties set forth in Submissions to Arbitration signed by claimant A. J. Low, Jr. on August 27, 1996 and by respondent Piper Jaffray on September 12, 1996 as required by Rules 10301 and 10302 of the Code of Arbitration Procedure.

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

1. Respondent Piper Jaffray be and hereby is liable and shall pay claimant the sum of \$4,702.00
2. Respondent Piper Jaffray be and hereby is liable and shall pay claimant an interest rate of 6% per annum from September 1, 1995 to September 19, 1997.
3. The \$150.00 filing fee previously deposited by claimant shall be retained by NASD Regulation, Inc. Respondent Piper Jaffray be and hereby is liable and shall pay claimant the sum of \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **Katherine Hendricks, Esq.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.


Katherine Hendricks, Esq.

Date of Decision: April 15, 1997