

N.A.S.D. AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration BetweenName of Claimant

Terri D. Carroll

96-03857

Name of RespondentPaineWebber, Inc.
James Taylor

REPRESENTATION

For Claimant: Dean Pappas, Esq. of Shackelford, Farrior, Stallings & Evans, Tampa, FL.

For Respondents: Joseph A. Vallo, Esq. of Joseph A. Vallo, Esq. Attorney at Law, New York, NY.

CASE INFORMATION

Statement of Claim filed: August 30, 1996.

Claimant's Submission Agreement signed on: September 23, 1996.

Joint Statement of Answer filed on: January 12, 1997.

Respondent, PaineWebber, Inc.'s Submission Agreement signed on: November 26, 1997.

Respondent, James Taylor's Submission Agreement signed on: December 9, 1997.

HEARING INFORMATION

On March 11, 1997 a telephonic pre-hearing conference was conducted lasting one session.

On May 15, 1998 in Tampa, FL a hearing lasting two sessions was conducted.

CASE SUMMARY

Claimant alleged that on or about February 2, 1996, Claimant ordered 5,000 shares of Revlon, Inc., through Respondent, James Taylor; that Taylor is a registered representative employed by Respondent, PaineWebber; that the purchase was suggested to Claimant by Taylor as a good investment for the short term and that Revlon shares were being underwritten by PaineWebber and would be offered at an initial public offering later in the month; that Claimant was never advised that 5,000 shares might not be available; that on or about February 26, 1996, Revlon opened at \$24.00; that on February 27, 1996, the

shares were trading at \$28.00 and the Claimant spoke to Taylor and ordered the 5,000 shares sold; that Taylor responded that he could not sell the shares because two weeks earlier he determined that they were not a good investment based on the company's debt/equity ratio; and, that during a tape recorded conversation, Taylor admitted to making a mistake that caused the Claimant to lose \$20,000.00.

Respondents denied the allegations contained in the Statement of Claim. Respondents alleged that Claimant expressed an "indication of interest" for 5,000 shares of a Revlon IPO in February, 1996; that the total Revlon IPO shares allocated to the branch office was 100 shares; that as a result of the limited allocation of the Revlon IPO shares and Claimant's position as second on the list of persons with indications of interest, Claimant was not entitled to any shares; that Claimant, through her duly authorized representative, was a sophisticated and experienced investor; and, that Claimant's representative's criminal conviction for Medicare fraud renders him unreliable.

RELIEF REQUESTED

Claimant requested \$20,000.00 (5,000 x \$4.00).

Respondents requested that the Statement of Claim be dismissed in its entirety, that forum fees be charged to Claimant, and that the Complaint be expunged from the CRD record of Respondent Taylor.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed to receive conformed copies of the Award while the original remains on file with the NASD.

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 follows:

1. The Respondents are found not liable and the Statement of Claim is dismissed in its entirety.
2. All references to this arbitration shall be expunged from the CRD record of Respondent James Taylor.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the panel hereby assesses forum fees to the Claimant in the amount of \$900.00 (one prehearing conference x \$300.00 plus two hearing sessions x \$300.00) for which NASD Regulation, Inc. shall retain the \$300.00 previously deposited by the Claimant in partial satisfaction thereof plus the \$300.00 adjournment fee previously deposited by the Claimant leaving a balance due in the sum of \$300.00.

The adjournment fee previously assessed to the Claimant is hereby waived.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

Chairperson's Signature

Name

Public/Industry

/S/

Public

Elsie C. Turner, J.D.

7/22/98

Date of Decision: _____