

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Hamid R. Kordadeh

Case No. 99-02796

Names of Respondent

PaineWebber, Inc.
Steven B. Restifo

REPRESENTATION OF PARTIES

For Hamid R. Kordadeh ("Kordadeh"), hereinafter referred to as "Claimant": Timothy J. O'Connor, Esq. of the law firm of Ainsworth, Sullivan, Tracy, Knauf, Warner & Ruslander, P.C., Albany, New York.

For PaineWebber, Inc. ("PaineWebber") and Steven B. Restifo ("Restifo"), hereinafter collectively referred to as "Respondents": Andrew J. Melnick, Corporate Vice President, Associate General Counsel, PaineWebber, Weehawken, New Jersey.

CASE INFORMATION

Statement of Claim filed on or about: June 17, 1999.

Claimant signed the Uniform Submission Agreement: January 26, 1999.

Joint Statement of Answer filed by Respondents on or about: September 21, 1999.

Respondent PaineWebber signed the Uniform Submission Agreement: September 21, 1999.

Respondent Restifo signed the Uniform Submission Agreement: September 21, 1999.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; breach of fiduciary duty; securities brokerage malpractice; conversion; fraudulent concealment; negligence; negligent misrepresentation; common law fraud; unsuitability under the Securities and Exchange Act of 1934 (15 U.S.C. Section 78(j)(b)); churning under the Securities and Exchange Act of 1934 (15 U.S.C. Section 78(j)(b)); and, controlling person liability pursuant to 15 U.S.C. Section 771(2) and 15 U.S.C. Section 770. The causes of action relate to the losses sustained in Claimant's account at PaineWebber in a number of highly speculative securities including Airborne Freight Corporation, Corrections Corporation of America, Cumulus Media, Inc., Electrogas, Inc., ENSCO International, First Plus Financial Group

and Netscape Communications.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following: The claim seeks to hold Respondents responsible for losses in Claimant's account that resulted from a speculative investment strategy that was devised, implemented and repeatedly affirmed by Claimant, a wealthy technology consultant and investor. Claimant wanted to be an active stock trader. Respondents expressly warned Claimant of the risks associated with his chosen strategy. Claimant made each investment decision in his account at PaineWebber. Respondents are not responsible for the resulting losses, which were due to adverse market conditions.

RELIEF REQUESTED

Claimant requested compensatory damages in the sum of \$535,927.00 together with NASD filing fees, NASD forum fees, NASD Arbitrators' fees, expert witness fees, costs, disbursements and attorneys' fees, together with any other further relief the Arbitration Panel deemed just and appropriate under the circumstances.

Respondents requested a dismissal of this proceeding, expungement of the claim from Respondent Restifo's record, an award in their favor of the costs and disbursements of this proceeding and such other and further relief as is just.

OTHER ISSUES CONSIDERED AND DECIDED

On or about June 7, 2000, Respondents asserted a motion to dismiss based upon Claimant's willful and repeated violations of the arbitration panel's orders in this arbitration by refusing, without explanation, to produce any documents in response to PaineWebber's discovery requests. Respondents further asserted that pursuant to the terms of the arbitration panel's May 4, 2000 Order which stated that should Claimant fail to respond to Respondents' discovery requests, Claimant's claims would be dismissed, and Rule 10305(b) of the NASD Code of Arbitration Procedure, Claimant's claims should be summarily dismissed, with prejudice. In response, Claimant's counsel asserted that he had not had contact with his client, Hamid R. Kordadeh, since the filing of the motion to dismiss.

AWARD

After considering the pleadings, the motion to dismiss and response and oral argument presented, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims against Respondents are dismissed, with prejudice.

The panel recommends the expungement of all references to the above-captioned arbitration from Respondent Restifo's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-

09, Respondent Restifo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

All other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$375.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$3,500.00

Adjournment Fees

Adjournments requested during these proceedings:

No adjournments were requested during these proceedings.

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three Pre-hearing sessions with Panel x \$1,200.00	= \$3,600.00
Pre-hearing conferences: January 31, 2000	1 session
May 4, 2000	1 session
<u>June 20, 2000</u>	1 session
Total Forum Fees	= \$3,600.00

The Panel has assessed the total forum fees of \$3,600.00 to Claimant.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$375.00
Forum Fees	= \$3,600.00
Total Fees	= \$3,975.00
<u>Less payments</u>	<u>= \$2,450.00</u>
Balance Due NASD Regulation, Inc.	= \$1,525.00

Respondent PaineWebber be and hereby is solely liable for:

Member Fees	= \$6,100.00
Total Fees	= \$6,100.00
<u>Less payments</u>	<u>= \$6,100.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

_____/s/_____
Fred M. Ridolphi, Jr., Esq.
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
Julia S. Levy
Public Arbitrator

Signature Date

_____/s/_____
Aubrey L. Stowell, III
Industry Arbitrator

Signature Date

July 18, 2000

Date of Service (For NASD office use only)

No administrative costs were incurred during these proceedings.

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Fred M. Ridolphi, Jr., Esq.
Public Arbitrator, Presiding Chair

7-18-2000
Signature Date

Julia S. Levy
Public Arbitrator

Signature Date

Aubrey L. Stowell, III
Industry Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Signature Date



Julia S. Levy
Public Arbitrator



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Fred M. Ridolphi, Jr., Esq.
Public Arbitrator, Presiding Chair

Signature Date

Julia S. Levy
Public Arbitrator

Signature Date

Abbey L. Stowell, III
Industry Arbitrator

Signature Date

7-9-00

Date of Service (For NASD office use only)