

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Lynn Berman, as Trustee for the Berman Family Trust (Claimant) vs. Solomon Smith Barney, Inc., and Rick Phillips (Respondent).

Case Number: 00-00541 Hearing Site: Denver, Colorado

REPRESENTATION OF PARTIES

Claimant, Lynn Berman, as Trustee for the Berman Family Trust ("Claimant"): Kimberly M. Hult, Esq.: Hutchinson Black and Cook, LLC., located in Boulder, CO.

Respondents, Solomon Smith Barney, Inc. and Rick Phillips ("Respondents"): Joanne Chormanski, Esq., Solomon Smith Barney, Inc., located in New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: January 7, 2000.

Claimant signed the Uniform Submission Agreement: February 3, 2000.

Statement of Joint Answer filed by Respondents, Solomon Smith Barney, Inc. and Rick Phillips, on or about: April 20, 2000.

The NASD has no record of Respondents, Solomon Smith Barney, Inc. and Rick Phillips, signed Uniform Submission Agreements.

CASE SUMMARY

Claimant asserted the following causes of action: Violation of Section 10(b) and Rule 10b-5; Negligent Misrepresentation; and Breach of Fiduciary Duty. The cases of action relate to purchases and sales in Claimant's account with Respondents involving bond fund, MuniEnhanced Fund, Inc.

Unless specifically admitted in its Answer, Respondents Solomon Smith Barney, Inc. and Rick Phillips denied the allegations made in the Statement of Claim and asserted the following defenses: Respondents are not in violation of any rules,

regulations, or applicable laws; Claimant failed to state a claim upon which relief can be granted; Claimant's claims are barred by applicable statutes of limitations; Claimant is barred from recovery of any alleged damages by Claimant's own failure to mitigate damages; Claimant's claims are barred from recovery of any alleged damages by the doctrines of ratification, waiver, estoppel and laches; Claimant's alleged losses are the result of his own acts or omission; Claimant is not entitled to punitive damages.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$57, 924.07
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief:	unspecified

Respondents requested:

Other Monetary/Non-Monetary Relief:	unspecified
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OTHER ISSUES CONSIDERED AND DECIDED

Respondents Solomon Smith Barney, Inc. and Rick Phillips did not file with the NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Arbitration Panel on all issues submitted.

The parties submitted briefs on attorney's fees after the hearing of this matter. 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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post hearing submissions, the Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondent Solomon Smith Barney, Inc. is liable for and shall pay Claimant, Lynn Berman, Trustee, the sum of ten thousand dollars (\$10,000.00) as compensatory damages;
2. That Respondent Rick Phillips is liable for and shall pay Claimant, Lynn Berman, Trustee, the sum of two thousand five hundred dollars (\$2,500.00) as compensatory damages;
3. That any and all requests for relief not specifically addressed herein, including punitive damages, is 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 = \$225.00

Member Fees

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

Member surcharge = \$1,000.00

Pre-hearing process fee = \$600.00

Hearing process fee = \$1,500.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel x \$750	= \$750
Pre-hearing conference: August 9, 2000	1 session
Four (4) Hearing sessions x \$750	= \$3,000
Hearing Dates: January 9, 2001	2 sessions
January 10, 2001	2 sessions
<hr/> Total Forum Fees	<hr/> = \$3,750

1. The Arbitration Panel has assessed \$1,875 of the forum fees to Solomon Smith Barney, Inc. Respondent.
2. The Arbitration Panel has assessed \$1,875 of the forum fees to Claimant Lynn Berman, Trustee.

Fee Summary

1. Claimant, Lynn Berman, Trustee, be and hereby is solely liable for:

Initial Filing Fee	= \$ 225
Forum Fees	= \$1,875
Administrative Costs	= \$0
<hr/> Total Fees	<hr/> = \$2,100
<u>Less payments</u>	<u>= \$ 975</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1125

2. Respondent, Solomon Smith Barney, Inc. be and hereby is solely liable for:

Member Fees	= \$3,100
Forum Fees	= \$1,875
<u>Administrative Costs</u>	= \$0
Total Fees	= \$4,975
<u>Less payments</u>	= \$3,100
Balance Due NASD Dispute Resolution, Inc.	= \$1,875

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signature

/s/ Judith A. Ferris

March 12, 2001

Judith A. Ferris
Public Arbitrator, Presiding Chair

Signature Date

/s/ Ronald Lantz

March 22, 2001

Ronald Lantz
Public Arbitrator

Signature Date

/s/ Jeffrey A. Schaefer

March 18, 2001

Jeffrey A. Schaefer
Industry Arbitrator

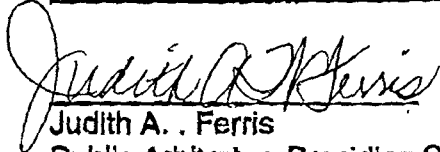
Signature Date

2. Respondent, Solomon Smith Barney, Inc. be and hereby is solely liable for:

Member Fees	= \$3,100
Forum Fees	= \$1,875
<u>Administrative Costs</u>	<u>= \$0</u>
Total Fees	= \$4,975
<u>Less payments</u>	<u>= \$3,100</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,875 ✓

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signature


Judith A. Ferris
Public Arbitrator, Presiding Chair

3/12/01
Signature Date

Ronald Lantz
Public Arbitrator

Signature Date

Jeffrey A. Schaefer
Industry Arbitrator

Signature Date

2. Respondent, Solomon Smith Barney, Inc. be and hereby is solely liable for:

Member Fees	= \$3,100
Forum Fees	= \$1,875
Administrative Costs	= \$0
Total Fees	= \$4,975
Less payments	= \$3,100
Balance Due NASD Dispute Resolution, Inc.	= \$1,875

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signature

Judith A. Ferris
Public Arbitrator, Presiding Chair

Signature Date



Ronald Lantz
Public Arbitrator

3/22/01

Signature Date

Jeffrey A. Schaefer
Industry Arbitrator

Signature Date

2. Respondent, Solomon Smith Barney, Inc. be and hereby is solely liable for:

Member Fees	= \$3,100
Forum Fees	= \$1,875
<u>Administrative Costs</u>	<u>= \$0</u>
Total Fees	= \$4,975
<u>Less payments</u>	<u>= \$3,100</u>
Balance Due NASD Dispute Resolution, Inc.	= \$1,875

All balances are due to NASD Dispute Resolution, Inc.


Concurring Arbitrators' Signature

Judith A. Ferris
Public Arbitrator, Presiding Chair

Signature Date

Ronald Lantz
Public Arbitrator

Signature Date



Jeffrey A. Schaefer
Industry Arbitrator

3/18/01

Signature Date