

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

Adam Stolpen, individually and as Custodian for Anastasia Stolpen and Aaron Stolpen,  
(Claimant) vs. Salomon Smith Barney Inc. and Joyce Goldfarb, (Respondents)

Case Number: 00-00566

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

*Claimant, Adam Stolpen, individually and as Custodian for Anastasia Stolpen and Aaron Stolpen, hereinafter referred to as "Claimant":* Richard Slavin, Esq., Cohen and Wolf, P.C., Bridgeport, CT.

*Respondents, Salomon Smith Barney Inc. ("SSB") and Joyce Goldfarb ("Goldfarb"), hereinafter collectively referred to as "Respondents":* Ellen Slipp, Esq., Associate General Counsel, Salomon Smith Barney Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: February 8, 2000.

Claimant signed the Uniform Submission Agreement: February 7, 2000.

Joint Statement of Answer filed by Respondents on or about: May 2, 2000.

SSB did not sign a Uniform Submission Agreement.

Goldfarb did not sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: failure to execute sell orders; misrepresentations; self-dealing in connection with the purchase or sale of a security; failure to supervise; breach of fiduciary duty; negligence; fraud; negligent misrepresentation; and violation of federal and state federal securities laws. Claimant's claim involved the stock of CD Radio.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant's demand for damages is improper as a matter of law and fact and therefore the Statement of Claim fails to state a claim upon which relief can be granted; Claimant directed and authorized all of the transactions in the accounts and is therefore estopped from bringing this action and from obtaining recovery; any diminution in the value of Claimant's accounts is the result, in whole

or in part, of unforeseen market fluctuations; Claimant's claims are barred by the equitable principles of waiver, estoppel, and ratification; Claimant's allegations relating to punitive damages are merely conclusive and fail to set forth ultimate facts sufficient to recover punitive damages; Claimant has not incurred any damages arising from the actions of Respondents; and Claimant has failed to mitigate his damages.

### **RELIEF REQUESTED**

Claimant requested:

- a. Compensatory damages in the amount of \$900,000.00;
- b. Attorneys' fees, costs, and interest under federal and state securities laws;
- c. Punitive damages in the amount of \$25,000.00 under Connecticut common law (limited to attorneys' fees and costs); and
- d. Any other damages the Panel sees fit to award.

Respondents requested that the Statement of Claim be dismissed in all respects.

### **OTHER ISSUES CONSIDERED AND DECIDED**

During the hearings in this matter, Respondents made a motion to dismiss at the close of Claimant's case. After due consideration, the Panel granted said motion.

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

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby dismissed in their entirety.
2. Each party shall bear its own costs and fees.
3. All other requests for relief are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, 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 that employed the associated person at the time of the events giving rise to the dispute. In this matter, Salomon Smith Barney Inc. 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:

May 22 & 23, 2001, adjournment by Claimant & Respondents = \$ 600.00 each

#### **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.

1. Adam Stolpen, duplication of (5) five tapes at \$15.00 per tape, \$75.00.

#### **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 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 a single arbitrator x \$450.00 = \$ 450.00  
Pre-hearing conference: May 8, 20021 session

One (1) Pre-hearing session with Panel x \$1,200.00 = \$1,200.00  
Pre-hearing conference: January 31, 20011 session

Three (3) Hearing sessions x \$1,200.00		= \$3,600.00
Hearing Dates:	May 14, 2002	2 sessions
	May 15, 2002	1 session
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Total Forum Fees		= \$5,250.00

1. The Panel has assessed \$2,625.00 of the forum fees against Claimant.
2. The Panel has assessed \$2,625.00 of the forum fees jointly and severally against Respondents.

**Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 600.00
Administrative Fees	= \$ 75.00
<u>Forum Fees</u>	<u>= \$2,625.00</u>
Total Fees	= \$3,675.00
<u>Less payments</u>	<u>= \$1,575.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,100.00

2. SSB be and hereby is solely liable for:

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

3. Respondents be and hereby are jointly and severally liable for:

Adjournment Fee	= \$ 600.00
<u>Forum Fees</u>	<u>= \$2,625.00</u>
Total Fees	= \$3,225.00
<u>Less payments</u>	<u>= \$ 600.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,625.00

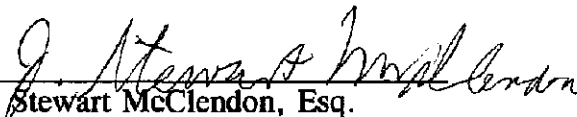
All balances are due and payable to NASD Dispute Resolution, Inc.

**ARBITRATION PANEL**

J. Stewart McClendon, Esq.	-	Public Arbitrator, Presiding Chair
William E.S. Browning, Esq.	-	Public Arbitrator
Robert Manfredo	-	Industry Arbitrator

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

  
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J. Stewart McClendon, Esq.  
Public Arbitrator, Presiding Chair

June 11, 2002  
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Signature Date

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William E.S. Browning, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert Manfredo  
Industry Arbitrator

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Signature Date

June 11, 2002  
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Date of Service (For NASD office use only)

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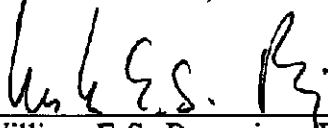
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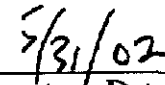
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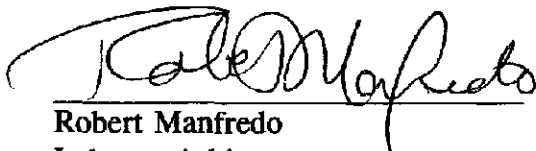
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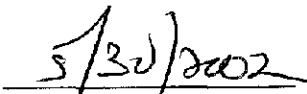
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Robert Manfredo  
Industry Arbitrator



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