

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Gail Hoy, Claimant v. Salomon Smith Barney, Inc., James H. Oliver, and Ronald S. Shores,  
Respondents

Case Number: 01-01997

Hearing Site: San Diego, California

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**REPRESENTATION OF PARTIES**

For Claimant:

Paul W. Thomas, Esq.  
Law Offices of  
Paul W. Thomas & Associates  
Carlsbad, California

For Respondents:

Paul J. Schumacher, Esq.  
David D. Piper, Esq.  
Keesal, Young & Logan  
Long Beach, California

Victor A. Machcinski, Jr.  
Salomon Smith Barney, Inc.  
New York, New York

**CASE INFORMATION**

Statement of Claim filed: April 16, 2001

Claimant's Uniform Submission Agreement signed: April 17, 2001

Joint Statement of Answer filed by Respondents Salomon Smith Barney, Inc., James H. Oliver, and  
Ronald S. Shores: June 15, 2001

Respondent Salomon Smith Barney, Inc.'s Uniform Submission Agreement signed: June 15, 2001

### **CASE SUMMARY**

Claimant alleged that her Smith Barney account was mishandled and that Respondents engaged in gross negligence, intentional material misrepresentations, conflicts of interest, violation of NASD rules, unsuitable recommendations, and failure to supervise.

Respondents denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted a number of affirmative defenses, including ratification, estoppel, waiver, comparative fault, and failure to manage her account reasonably.

### **RELIEF REQUESTED**

Claimant sought compensatory damages of \$691,388.39, punitive damages of \$2,074,165.17, interest, and arbitration costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety and arbitration costs, including attorneys' fees.

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

Respondents James H. Oliver and Ronald S. Shores did not file with the NASD Dispute Resolution properly executed submission agreements but are required to submit to arbitration pursuant to the Code and having answered the claim, are bound by the determination of the Panel on all issues submitted.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

### **AWARD**

It is hereby stipulated by Claimant and Respondents, through their undersigned attorneys of record, that:

- 1) Each and every one of Claimant's claims asserted against Respondents is hereby dismissed with prejudice pursuant to a settlement between the Parties; and
- 2) Claimant does not object to the Panel rendering the following award:

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

- 1) The Panel recommends the expungement of all reference to the above captioned arbitration from Ronald S. Shores' registered records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to the NASD Notice to Members 99-09, Ronald S. Shores must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 2) The Panel recommends the expungement of all reference to the above captioned arbitration from James H. Oliver's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, James H. Oliver must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

#### **FEES**

Pursuant to the Code, the following fees are assessed:

##### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 500.00
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##### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Salomon Smith Barney, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 4,500.00
<b>Total Member Fees</b>	<b>= \$ 7,600.00</b>

##### **Adjournment Fees**

The following adjournment fees are assessed:

Hearing Dates, July 9, 2002 – July 11, 2002 adjournment requested by Salomon Smith Barney, Inc. Fee waived by Panel	= \$ 0.00
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**Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Arbitrator/Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: July 8, 2002 1 session	
1 Pre-hearing conference session with the Panel @ \$ 1,200.00/session	= \$ 1,200.00
Pre-hearing conference: March 25, 2002 1 session	
<b>Total Forum Fees</b>	<b>= \$ 1,650.00</b>

1. The Panel assessed \$ 825.00 of the forum fees to Claimant Gail Hoy.
2. The Panel assessed \$ 825.00 of the forum fees jointly and severally to Respondents Salomon Smith Barney, Inc., James H. Oliver, and Ronald S. Shores

**Fee Summary**

1. Claimant Gail Hoy is charged with the following fees and costs:

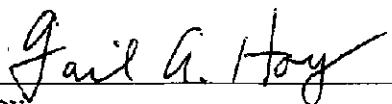
Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$ 825.00</u>
Total Fees	= \$ 1,325.00
<u>Less payments</u>	<u>= \$(1,800.00)</u>
<b>Refund Due Claimant</b>	<b>= \$( 475.00)</b>
2. Respondent Salomon Smith Barney, Inc. is charged with the following fees and costs:

Member Fees	= \$ 7,600.00
<u>Less payments</u>	<u>= \$(7,600.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>
3. Respondents Salomon Smith Barney, Inc., James H. Oliver, and Ronald S. Shores are charged jointly and severally with the following fees and costs:

<u>Forum Fees</u>	<u>= \$ 825.00</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 825.00</b>

All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**Parties' Signatures**

  
\_\_\_\_\_  
Gail Hoy

10-4-02  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Salomon Smith Barney, Inc.

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

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Salomon Smith Barney, Inc.

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

\_\_\_\_\_  
James H. Oliver

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

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Arbitration No. 01-61897  
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Parties' Signatures

\_\_\_\_\_  
Gail Hoy

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

Salomon Smith Barney Inc. September 17, 2002  
Salomon Smith Barney, Inc. By: Vicki A. Maschanda Signature Date  
Director

\_\_\_\_\_  
Ronald S. Shores

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

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James H. Oliver

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

Parties' Signatures

\_\_\_\_\_  
Gail Hoy

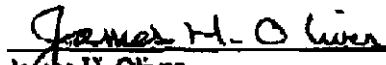
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Signature Date

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Salomon Smith Barney, Inc.

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Signature Date

  
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Ronald S. Shores

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

  
\_\_\_\_\_  
James H. Oliver

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

NASD Dispute Resolution  
Arbitration No. 03-01997  
Award Page 5 of 6

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**ARBITRATION PANEL**

Michael E. Himmelstein, Esq.

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Public Arbitrator, Presiding Chair

Russ L. Olson

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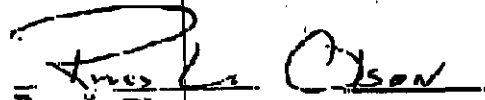
Public Arbitrator

Sidney Jacobsen, Esq.

Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Michael E. Himmelstein, Esq.  
Chair, Public Arbitrator

  
Russ L. Olson  
Public Arbitrator

Signature Date

10-10-02  
Signature Date

Sidney Jacobsen, Esq.  
Non-Public Arbitrator

Signature Date

10/28/02  
Date of Service



**ARBITRATION PANEL**

Michael E. Himmelstein, Esq.	-	Public Arbitrator, Presiding Chair
Russ L. Olson	-	Public Arbitrator
Sidney Jacobsen, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Michael E. Himmelstein, Esq.  
Chair, Public Arbitrator

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Signature Date

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Russ L. Olson  
Public Arbitrator

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Signature Date



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Sidney Jacobsen, Esq.  
Non-Public Arbitrator

10/10/02

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Signature Date

10/28/02

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Date of Service

**ARBITRATION PANEL**

Michael E. Himelein, Esq.

Public Arbitrator, Presiding Chair


Russ L. Olson

Public Arbitrator

Sidney Jacobsen, Esq.

Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Michael E. Himelein, Esq.  
Chair, Public Arbitrator

10/23/02  
\_\_\_\_\_  
Signature Date

Russ L. Olson  
Public Arbitrator

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

Sidney Jacobsen, Esq.  
Non-Public Arbitrator

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Signature Date

10/28/02  
\_\_\_\_\_  
Date of Service