

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

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In the Matter of the Arbitration Between:

International Yacht Restoration School (Claimant) v. Denise Roberts and Salomon Smith Barney (Respondents) v. Elizabeth Meyer (Third-Party Respondent)

Case Number: 02-05390

Hearing Site: Boston, Massachusetts

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Nature of the Dispute:

Initial Claim: Customer vs. Member and Associated Person

Third-Party Claim: Member and Associated Person v. Customer

**REPRESENTATION OF PARTIES**

Claimant International Yacht Restoration School hereinafter referred to as ("Claimant"): Stacey Nakasian, Esq., Duffy & Sweeney, LTD, Providence, RI.

Respondents Denise Roberts ("Roberts") and Salomon Smith Barney, Inc. ("SSB"): hereinafter collectively referred to as ("Respondents"): Serena D. Madar, Esq., Bingham McCutchen, LLP. Previously represented by Robert A. Buhlman, Esq., and Eunice E. Lee, Esq., Bingham McCutchen LLP, Boston, MA.

Third-Party Respondent Elizabeth Meyer ("Meyer"): Stacey Nakasian, Esq., Duffy & Sweeney, LTD., Providence, RI.

**CASE INFORMATION**

Statement of Claim filed on or about: September 11, 2002.

Claimant signed the Uniform Submission Agreement: September 10, 2002.

Joint Statement of Answer and Third-Party Claim filed by Respondents on or about: November 8, 2002.

Roberts signed the Uniform Submission Agreement: November 7, 2002.

SSB signed the Uniform Submission Agreement: November 8, 2002.

Statement of Answer to Third-Party Claim filed by Meyer on or about: September 2, 2003.

Meyer did not sign a Uniform Submission Agreement.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence; breach of fiduciary duty and unsuitable investment advice. The causes of action relate to failure to execute trades in Lucent stock, Dow Diamond trust stock and various bonds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

In their Third-Party Claim, Respondents asserted the following causes of action: breach of fiduciary duty and unsuitable investment decisions.

Unless specifically admitted in her Answer, Meyer denied all of the allegations and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of at least \$112,000.00; interest thereon; punitive damages as deemed appropriate by the arbitrators; costs; attorneys' fees; NASD arbitration fees and arbitrator costs.

Respondents requested an award dismissing Claimant's claims.

In their Third-Party Claim, Respondents requested contribution from Meyer for the entire amount of any award found against them in accordance with Rhode Island Gen. Laws 1956, §10-6-1 et seq; interest; costs and attorneys' fees.

Meyer requested the dismissal of Respondents' requests for contribution; attorneys' fees; interest and costs.

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

Respondent Meyer did not file with NASD Dispute Resolution a properly executed submission agreement but having answered the claim and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On June 11, 2003, the Panel convened with the parties by telephone conference to hear oral argument on Meyer's Motion to Dismiss. After due deliberation, the Panel determined to deny Meyer's Motion.

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**

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 dismissed in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Denise Roberts' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Denise Roberts must obtain confirmation from a court of competent jurisdiction before CRD will execute the

expungement directive.

3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$ 300.00
Third-Party claim filing fee	= \$ 1,000.00

#### **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. Accordingly, Respondent Salomon Smith Barney is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 2,750.00</u>
Total Member fees	= \$ 5,200.00

#### **Adjournment Fees**

Adjournment granted during these proceedings for which fees were assessed:

December 18, 2003, adjournment requested by Claimant	Waived
April 14, 15 and 16, 2004, adjournment requested by Meyer	Waived

#### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00 per session	= \$ 2,250.00
Pre-hearing conferences: April 1, 2003 1 session	
June 11, 2003 1 session	

Nineteen (19) Hearing sessions @ \$1,125.00 per session	= \$21,375.00
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Hearing Dates:	October 22, 2003	2 sessions
	October 23, 2003	2 sessions
	October 24, 2003	2 sessions
	October 18, 2005	2 sessions
	October 19, 2005	2 sessions
	October 20, 2005	2 sessions
	November 15, 2005	2 sessions
	November 16, 2005	2 sessions
	November 22, 2005	3 sessions

Total Forum Fees	= \$23,625.00
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1. The Panel has assessed \$17,718.75 of the forum fees against Claimant.

2. The Panel has assessed \$5,906.25 of the forum fees against Salomon Smith Barney.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Claimant requested copies of tapes of the October 18, 19, 20, 2005 hearings = \$ 135.00

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$	300.00
Forum Fees	= \$	17,718.75
<u>Administrative Costs</u>	= \$	<u>135.00</u>
Total Fees	= \$	18,153.75
<u>Less payments</u>	= \$	<u>1,425.00</u>
Balance Due NASD Dispute Resolution	= \$	16,728.75

2. Respondent SSB is solely liable for:

Member Fees	= \$	5,200.00
<u>Forum Fees</u>	= \$	<u>5,906.25</u>
Total Fees	= \$	11,106.25
<u>Less payments</u>	= \$	<u>6,200.00</u>
Balance Due NASD Dispute Resolution	= \$	4,906.25

3. Respondents SSB and Meyer are jointly and severally liable for:

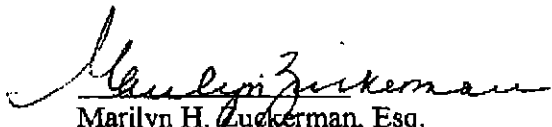
<u>Third-Party Claim Filing Fee</u>	= \$	<u>500.00</u>
Total Fees	= \$	500.00
<u>Less Payments</u>	= \$	<u>500.00</u>
Balance Due NASD Dispute Resolution	= \$	0.00

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

**ARBITRATION PANEL**

Marilyn H. Zuckerman, Esq.	-	Public Arbitrator, Presiding Chairperson
James A. Wills	-	Public Arbitrator
Amy Lampert	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Marilyn H. Zuckerman, Esq.  
Public Arbitrator, Presiding Chairperson

1/5/06  
Signature Date

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James A. Wills  
Public Arbitrator

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

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Amy Lampert  
Non-Public Arbitrator

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Signature Date

**January 5, 2006**

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Date of Service (For NASD Dispute Resolution use only)

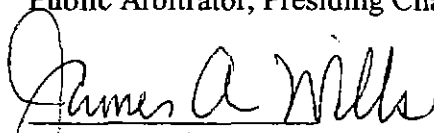
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Public Arbitrator, Presiding Chairperson

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Signature Date

  
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James A. Wills  
Public Arbitrator

12.22.05  
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Signature Date

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Amy Lampert  
Non-Public Arbitrator

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Signature Date

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