

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Case Number: 02-05695

Kathy Kaplan Smith; Kathy
Kaplan Smith SSB IRA Custodian;
Kathy Kaplan Smith ACF Jennifer
F. Smith U/FL/UTMA; and,
Kathy Kaplan Smith Cust
Jordan B. Smith UGTMA

Name of the Respondent

Hearing Site: Boca Raton, Florida

Salomon Smith Barney, Inc.

Nature of Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Kathy Kaplan Smith; Kathy Kaplan Smith SSB IRA Custodian; Kathy Kaplan Smith ACF Jennifer F. Smith U/FL/UTMA; and, Kathy Kaplan Smith Cust Jordan B. Smith UGTMA, hereinafter referred to as "Claimant": Darren C. Blum, Esq. and Wayne H. Schwartz, Esq., Blum, Silver & Schwartz, LLP, Plantation, Florida.

For Salomon Smith Barney, Inc., hereinafter referred to as "Respondent": Tucker Byrd, Esq., Greenberg Traurig, P.A., Orlando, Florida.

CASE INFORMATION

Statement of Claim filed on or about: September 24, 2002.

Claimant signed the Uniform Submission Agreement: September 14, 2002.

Statement of Answer filed by Respondent on or about: November 22, 2002.

Respondent did not submit an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: violation of industry rules; violation of Section 517.301 of the Florida Statutes; breach of contract; breach of fiduciary duty; common law fraud; negligence; and negligent hiring, supervision and retention of employees. The causes of action relate to the purchase and sale of shares of the Pimco Fund in Claimant's accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$125,000.00, plus interest at the legal rate from the date of purchase, or reasonable market return, rescission, reasonable attorneys' fees to be determined by a court of competent jurisdiction, punitive damages, costs and any other relief deemed just and proper.

Respondent requested that the claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing, is bound by the determinations of the Panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

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:

All claims are dismissed, with prejudice.

The parties are each responsible for their own attorneys' fees.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and claim for relief pursuant to Section 517.301 of the Florida Statutes, are denied.

FEEES

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
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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	= \$1,700.00
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Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

No requests for adjournments were filed in this matter.

Injunctive Relief Fees

No injunctive relief fees were incurred in this matter.

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:

One (1) Pre-hearing session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: December 10, 2003 1 session	
One (1) Pre-hearing session with the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: April 9, 2003 1 session	
Five (5) Hearing sessions @ \$1,125.00	= \$5,625.00
Hearing Dates: December 16, 2003 2 sessions	
December 17, 2003 2 sessions	
December 18, 2003 1 session	

Total Forum Fees	= \$7,200.00
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The Panel has assessed \$3,600.00 of the forum fees to Claimant.
The Panel has assessed \$3,600.00 of the forum fees to Respondent.

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 are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,600.00
Total Fees	= \$3,900.00

Less payments = \$1,425.00

Balance Due NASD Dispute Resolution = \$2,475.00

Respondent is solely liable for:

Member Fees = \$5,200.00

Forum Fees = \$3,600.00

Total Fees = \$8,800.00

Less payments = \$5,200.00

Balance Due NASD Dispute Resolution = \$3,600.00

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

ARBITRATION PANEL

James Barry Wright	-	Public Arbitrator, Presiding Chair
Janet N. Smiles	-	Public Arbitrator
David Barth, CFA	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

12/30/03

James Barry Wright
Public Arbitrator, Presiding Chair

Signature Date

/s/

12/30/03

Janet N. Smiles
Public Arbitrator

Signature Date

/s/

12/30/03

David Barth, CFA
Non-Public Arbitrator

Signature Date

12/31/03

Date of Service (For NASD Dispute Resolution office use only)

Less payments = \$1,425.00

Balance Due NASD Dispute Resolution = \$2,475.00

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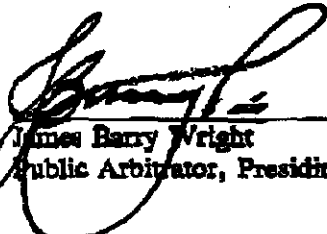
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