

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

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In the Matter of the Arbitration Between:

Randall L. Anderson Trustee of the Bernice M. Thornburgh Trust, Claimant v. Salomon Smith Barney, Inc. and Steven Eugene Lahre, Respondents

Salomon Smith Barney, Inc. and Steven Eugene Lahre, Respondents/Third Party Claimants v. Randal L. Anderson, Trustee, Third Party Respondent

Case Number: 03-01712

Hearing Site: Portland, Oregon

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Nature of Dispute: Customer v. Member Firm and Associated Person  
Member Firm and Associated Person v. Customer

**REPRESENTATION OF PARTIES**

For Claimant and Third Party Respondent:

G. Mark Brewer, Esq.  
Brewer & Carlson, LLP  
La Jolla, California

For Respondents/Third Party  
Claimants:

Bruce L. Campbell, Esq  
Miller Nash LLP  
Portland, Oregon

**CASE INFORMATION**

Statement of Claim filed: March 3, 2002

Claimant Bernice M. Thornburgh Trust's Uniform Submission Agreement signed:  
February 28, 2003

Third Party Respondent, Randall L. Anderson, Trustee's Uniform Submission Agreement signed:  
February 28, 2003

Joint Statement of Answer and Third-Party Claim filed by Respondents/Third Party Claimants:  
May 6, 2003

Third Party Respondent, Randall L. Anderson's Motion to Dismiss Third Party Claim filed:  
September 12, 2003.

Joint Statement of Answer filed by Respondents/Third Party Claimants to Third Party Respondent, Randall L. Anderson's Motion to Dismiss Third Party Claim filed: September 24, 2003.

Respondent/Third Party Claimant Salomon Smith Barney, Inc.'s Uniform Submission Agreement signed: May 5, 2003

Respondent/Third Party Claimant Steven Eugene Lahre's Uniform Submission Agreement signed: March 27, 2003

### **CASE SUMMARY**

In the Statement of Claim, Claimant alleged breach of contract; negligent misrepresentation, failure to supervise, intentional misrepresentation and suitability involving the purchase of unspecified securities.

Respondents/Third Party Claimants denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim. In their Third Party Claim, Respondents/Third Party Claimants alleged that Third Party Respondent, Randall L. Anderson, Trustee of the Bernice M. Thornburgh Trust, is personally liable for any losses sustained by the Bernice M. Thornburgh Trust.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the sum of \$304,810.65, unspecified exemplary and punitive damages, costs and attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, and in their Third Party Claim Respondents requested that the award of damages, if any, should be made against Third Party Respondent Randall L. Anderson in his capacity as Trustee of the Bernice M. Thornburgh Trust.

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

On October 2, 2003, the Panel granted Claimant/Third Party Respondent Randall L. Anderson's Motion to Dismiss the Third Party Claim.

At the hearing, at the conclusion of the Claimant's case, Respondents/Third Party Claimants made an oral Motion for Summary Adjudication of the Claimant's Claim.

The Panel granted Respondents/Third Party Claimants' Motion for Summary Adjudication.

At the hearing, Respondents/Third-Party Claimants made an oral motion for the expungement of all reference to the above captioned arbitration from Respondent Steven Eugene Lahre's registration records maintained by the NASD Central Registration Depository ("CRD").

The panel granted the motion for expungement.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.
- 4) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent/Third Party Claimant Steven Eugene Lahre's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent/Third Party Claimant Stephen Eugene Lahre 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	= \$ 300.00
Respondents' Third-Party Claim	= \$ 500.00

### **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 Salmon Smith Barney, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
<b>Total Member Fees</b>	<b>= \$5,200.00</b>

### **Forum Fees and Assessments**

The Arbitrator/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:

(2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$2,250.00
Pre-hearing conferences: July 9, 2003	1 session
October 2, 2003	1 session
(4) Hearing sessions @ \$1,125.00/session	= \$ 4,500.00
Hearings: February 10, 2004	2 sessions
February 11, 2004	2 sessions
<b>Total Forum Fees</b>	<b>= \$6,750.00</b>

1. The Panel assessed \$3,375.00 of the forum fees to Claimant.
2. The Panel assessed \$3,375.00 of the forum fees jointly and severally to Respondents.

### **Fee Summary**

1. Claimant Randall L. Anderson, Trustee of the Bernice M. Thornburgh Trust is charged with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 3,375.00
Total Fees	= \$ 3,675.00
Less payments	= \$(1,425.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 2,250.00</b>

2. Respondent/Third Party Claimant Salomon Smith Barney, Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	<u>= \$(5,200.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondents/Third Party Claimants Salomon Smith Barney, Inc. and Steven Eugene Lahre are charged jointly and severally with the following fees and costs:

Third Party Claim Filing Fee	500.00
<u>Forum Fees</u>	<u>= \$ 3,375.00</u>
<b>Total Fees</b>	<b>= \$ 3,875.00</b>
<u>Less payments by Salomon Smith Barney, Inc.</u>	<u>= \$(2,250.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,625.00</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.

**ARBITRATION PANEL**

Bernard F. Vail	-	Public Arbitrator, Presiding Chair
Clyde Fahlman	-	Public Arbitrator
Marlyn G. McClaskey	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Bernard F. Vail  
Chair, Public Arbitrator

  
Signature Date

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Clyde Fahlman  
Public Arbitrator

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

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Marlyn G. McClaskey  
Non-Public Arbitrator

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Signature Date

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Date of Service

**ARBITRATION PANEL**

Bernard F. Vail	-	Public Arbitrator, Presiding Chair
Clyde Fahlman	-	Public Arbitrator
Marlyn G. McClaskey	-	Non-Public Arbitrator

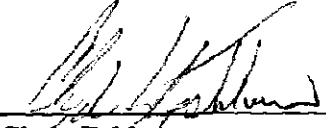
**Concurring Arbitrators' Signatures**

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Bernard F. Vail  
Chair, Public Arbitrator

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Signature Date



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Clyde Fahlman  
Public Arbitrator



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Signature Date

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Marlyn G. McClaskey  
Non-Public Arbitrator

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Signature Date

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February 24, 2004  
Date of Service

**ARBITRATION PANEL**

Bernard F. Vall	-	Public Arbitrator, Presiding Chair
Clyde Fahlman	-	Public Arbitrator
Marilyn G. McCluskey	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Chair, Public Arbitrator

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Signature Date

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Clyde Fahlman  
Public Arbitrator

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Signature Date

*Marilyn G. McCluskey*  
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Marilyn G. McCluskey  
Non-Public Arbitrator

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Signature Date

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Date of Service