

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

-----  
In the Matter of the Arbitration Between )  
Helen E. Whitcomb, )  
Claimant, )  
vs. ) Case #88-01999  
Award  
Smith Barney, Harris Upham & Co., Inc., )  
Respondent. )  
-----

Heard before the members of the Arbitration Panel:

Arieh Leo Douer  
Leonard E. Pacun  
Richard P. Greene, Esq.

CASE SUMMARY

This claim was filed with the NASD, Inc. on June 21, 1988. The hearing was conducted on July 7, 1989 in Fort Lauderdale, Florida, with a total of two (2) sessions.

Claimant, Helen E. Whitcomb ("Whitcomb") alleged that Respondent, Smith Barney, Harris Upham & Co., Inc. ("Smith Barney") was liable for damages incurred by placing Whitcomb in unsuitable trades which Smith Barney's own compliance department had disapproved Claimant for. Respondent alleged that Claimant was a sophisticated investor; that it was Claimant's request to sell naked options, and that Claimant was aware of all risks.

RELIEF REQUESTED

Claimant requested damages of Seventy Seven Thousand Eight Hundred Ten and 00/100 (\$77,810.00) Dollars plus interest; punitive damages; attorney's fees and other costs. Respondent requested dismissal of claim and costs.

## AWARD

On July 7, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on June 10, 1988, and by Respondent on August 19, 1988. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.
2. Respondent, Smith Barney, shall be and hereby is liable and shall pay to Claimant the amount of Twenty Seven Thousand Six Hundred Ten and 44/100 (\$27,610.44) Dollars.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitrators have assessed forum fees in the amount of One Thousand and 00/100 (\$1,000.00) Dollars (\$500 x 2 sessions). Respondent, Smith Barney, shall be and hereby is assessed forum fees in the amount of Five Hundred and 00/100 (\$500.00) Dollars payable to the NASD, Inc. Claimant, Whitcomb, shall be and hereby is assessed forum fees in the amount of Five Hundred and 00/100 (\$500.00) Dollars. The National Association of Securities Dealers, Inc. shall retain the Five Hundred and 00/100 (\$500.00) Dollar filing fee previously deposited by the Claimant in full satisfaction of such forum fees.
4. Claimant's request for attorney's fees hereby is dismissed in all respects.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

## OTHER ISSUES

NONE

## ARBITRATORS CONCURRING

Arieh Leo Douer  
Leonard E. Pacun  
Richard P. Greene, Esq.

Dated: July 25, 1989