

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between )  
RANDALL BROWNING )  
 )  
 ) Claimant )  
 ) and )  
 ) SMITH BARNEY, HARRIS UPHAM & CO., INC. )  
 )  
 ) Respondent )

CASE NO. 88-02673

CASE SUMMARY

Randall Browning ("Claimant") alleged that Smith Barney, Harris Upham & Co., Inc. ("Respondent") was negligent in handling his account, made misrepresentations and omissions regarding his securities it recommended, churned his account, violated the Deceptive Trade Practices Act ("DTPA"), and committed fraud.

Respondent denied the claims and further alleged that the Claimant was fully informed of the risks and nature of his investments which were consistent with this investment objectives. Respondent further alleged that the claimants' claims were barred by the doctrines of assumption of the risk, estoppel, ratification, and contributory negligence.

RELIEF REQUESTED

Claimant requested compensatory damages of \$65,000.00, treble damages pursuant to the DTPA, \$100,000 as punitive damages, pre and post award interest, and costs including reasonable attorneys' fees.

Respondent requested that the claims be dismissed.

AWARD

On August 19, 1988 the NASD during the Claimant's Statement of Claim. On April 26, 1990, in Houston, Texas during a hearing lasting two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on August 11, 1988 by the Claimant and on October 28, 1988 by Larry H. Irom on behalf of the Respondent.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

Date served: 5-18-90

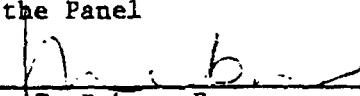
1. The Respondent shall be liable for and shall pay to the Claimant \$45,000 together with interest accruing from December 31, 1986 at the rate of 10% per annum until payment;

2. The parties shall bear their own costs including attorneys' fees and costs; and

3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the \$500.00 filing fee previously deposited with the NASD by the Claimant, and the Respondent shall pay to the NASD \$750.00 as forum fees to the NASD.

By the Panel

Dated: \_\_\_\_\_ /S/

  
\_\_\_\_\_  
Mary E. Baker, Esq.  
Presiding Chair

Dated: \_\_\_\_\_ /S/

\_\_\_\_\_  
William F. Schneider, Esq.

Dated: \_\_\_\_\_ /S/

\_\_\_\_\_  
Gregory E. Cater

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By the Panel

Dated: \_\_\_\_\_ /S/

\_\_\_\_\_  
Mary E. Baker, Esq.  
Presiding Chair

Dated: May 14, 1990 /S/

\_\_\_\_\_  
William F. Schneider, Esq.

Dated: \_\_\_\_\_ /S/

\_\_\_\_\_  
Gregory E. Cater

1. The Respondent shall be liable for and shall pay to the Claimant \$45,000 together with interest accruing from December 31, 1986 at the rate of 10% per annum until payment;

2. The parties shall bear their own costs including attorneys' fees and costs; and

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By the Panel


Dated: \_\_\_\_\_ /S/

\_\_\_\_\_  
Mary E. Baker, Esq.  
Presiding Chair

Dated: \_\_\_\_\_ /S/

\_\_\_\_\_  
William F. Schneider Esq.

Dated: 5/10/90 /S/

  
\_\_\_\_\_  
Gregory E. Cater