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NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Victor Marcus
Eleanor Marcus

Claimants

vs.

Smith Barney, Harris Upham & Co., Inc.

Respondent

CASE #88-02968
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 19, 1988 and amended on November 10, 1989 Claimants Victor and Eleanor Marcus alleged Respondent, through the account executive handling Claimants' account, exposed their account to substantial risk and engaged in unauthorized trading. Claimants further alleged Respondent failed to properly supervise the broker by permitting him to disregard Claimants' best interest and pursue his own interest of generating commissions through excessive, speculative and unsuitable trading. Respondent Smith Barney, Harris Upham & Co., Inc. maintained Claimants understood the risks of their chosen trading strategy, knowingly accepted those risks and authorized every trade. Respondent further maintained a debit balance remains in Claimants' account.

RELIEF REQUESTED

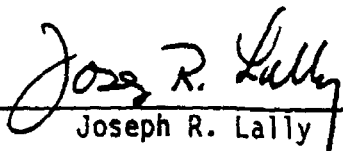
Claimants requested damages of \$1,000,000.00 plus interest, costs and punitive damages. Respondent requested dismissal of claim and that Smith Barney, Harris Upham & Co., Inc. be awarded the amount of the deficit in the account in full, plus interest and costs.

AWARD


On November 21, December 28, 1989, January 4, February 6, 7 and March 21 and 22, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Victor and Eleanor Marcus on September 10, 1988, and by Respondent Smith Barney, Harris Upham & Co., Inc. on February 2, 1989. The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in Philadelphia, Pennsylvania and consisted of fourteen (14) hearing sessions. 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 claims by the Claimants Victor and Eleanor Marcus be and hereby are dismissed in all respects.
2. The counterclaim by the Respondent Smith Barney, Harris Upham & Co., Inc. be and hereby is dismissed in all respects.
3. The parties shall each bear their respective costs, including attorneys' fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$1,000.00 filing fee previously deposited by the Claimants and the Claimants be and hereby are liable and shall pay to the National Association of Securities Dealers, Inc. the sum of Six Thousand Dollars and No Cents (\$6,000.00) to represent forum fees. In addition, the Respondent Smith Barney, Harris Upham & Co., Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of Seven Thousand Dollars and No Cents (\$7,000.00) to represent forum fees.

CONCURRING ARBITRATORS



Joseph R. Lally



Frank T. Salera

Dated: June 27th, 1990