

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between	:
	:
Robert Giovacco	:
	:
Claimant	:
	:
vs.	:
	:
Smith Barney Harris Upham & Co., Inc.	:
Bruce Olephant	:
	:
Respondents	:

AWARD

#88-03271

Case Summary

This proceeding was commenced by the Claimant Robert Giovacco ("Giovacco") to recover damages from the Respondents Smith Barney Harris Upham & Co., Inc. ("Smith Barney") and Bruce Olephant ("Olephant") from losses in Claimant's securities account. Giovacco's claim is based on a failure of the Respondent Olephant to disclose material adverse information on the securities purchased, as well as allegations of misrepresentation by the Respondents. The specific securities involved were Top Brass, ZZZZ Best and Barris Industries.

Respondents contend that there were no misrepresentations or omissions made by the broker, Olephant. Moreover, the Respondents contend that the recommendations were made in good faith.

Relief Requested

Claimant requested an award of \$21,000.00 including costs and attorney fees. Respondents requested the dismissal of the claim in its entirety and an award of costs and attorney fees.

Award

On June 13 and July 18, 1989 in New York, New York, the undersigned arbitrators heard the controversy between the parties as set forth to arbitration by the Claimant on October 21, 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 Respondents Smith Barney and Olephant shall be liable and shall pay to the Claimant Giovacco the amount of \$7,543.51, such amount representing the Claimant's damages.
2. The parties shall each bear their respective costs including attorney fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant.

Henry H. Balter

Jerome Goodgal

Andrew Reegen