

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Margot M. Roberts and  
Debrah C. Herman,

Claimants

vs.

Smith Barney, Harris Upham & Co., Inc.,  
and  
Edward L. Diener,

Respondents  
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Case #88-03360

Award

CASE SUMMARY

Claimants allege that the highly leveraged trading in their accounts of U.S. Treasury Bonds was unsuitable, excessive and unauthorized. Claimants further allege that Edward Diener misrepresented the risk involved and that Smith Barney failed to supervise him. Claimants also allege that Respondents violated Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5, Commodity Exchange Act 7 USC Section 1 - 26, 15 USC Section 6B and that they breached their fiduciary duties.

Respondents deny the allegations of wrongdoing, interpose five affirmative defenses and allege that the trades were consistent with the Claimants' investment objectives, sophistication and financial resources.

RELIEF REQUESTED

Claimants request an award of \$250,000.00, individually and collectively, plus the benefit of the investment but for the wrongful conduct. Respondents request that the panel dismiss the claims in their entirety, award costs and attorney's fees.

AWARD

On September 29, 1989, November 9, 10 and 17, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in a submission to arbitration signed by Claimants, Margot M. Roberts and Debrah C. Herman, on February 25, 1988 and by Respondents, Smith Barney, Harris Upham & Co., Inc. and Edward L. Diener, on December 12, 1988, and December 6, 1988,

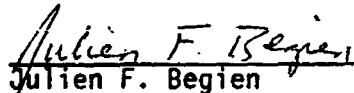
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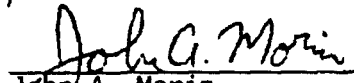
respectively. The hearing was held in Boston, Massachusetts and consisted of nine sessions. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by the Claimants against the Respondents are hereby dismissed in their entirety.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimants. Claimants are further assessed \$2,625.00 and Respondent, Smith Barney, Harris Upham & Co., is assessed \$3,375.00.

CONCURRING ARBITRATORS

  
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Cornelius J. McAuliffe

  
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Julien F. Begien

  
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John A. Morin

Dated: December 20, 1989