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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Doris Kahn

Case No. 89-01111

Name of Respondent

Smith Barney Harris Upham & Co., Inc.

REPRESENTATION

For Claimant, Doris Kahn ("Kahn"): Robert Dyer, Esq. of Allen, Dyer, Doppelt, Franjola & Milbrath, P.A., of Orlando, Florida.

For Respondent, Smith Barney Harris Upham & Co., Inc. ("Smith Barney"): Paul K. Barenholtz, Esq. of Smith Barney, New York, New York.

CASE INFORMATION

Statement of Claim filed: April 13, 1989 and Amended Complaint filed: July 27, 1994. Claimant's Submission Agreement signed: April 5, 1989.

Response of Smith Barney to Amended Complaint filed: July 29, 1994. Respondent's Submission Agreement signed: August 4, 1994 by Smith Barney.

HEARING INFORMATION

On July 13 and twice on July 26, 1994 pre-hearing conferences lasting three (3) sessions were conducted (via telephone conference call) with an arbitrator on the first two sessions and the full panel on the last session.

On August 2, 3, 4, 16, 17, and September 13, 1994, in Fort Lauderdale, Florida, hearings lasting 12 sessions were conducted.

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CASE SUMMARY

Claimant alleged breach of contract, negligence, misrepresentation, violations of federal and state securities laws, and civil theft for improper portfolio management without Claimant's knowing approval and understanding, and that Respondent is liable for the actions of its employee who managed the portfolio.

Respondent denied all allegations of wrongdoing. Respondent alleged the affirmative defenses of waiver, laches, estoppel and statutes of limitation.

RELIEF REQUESTED

Claimant requested unspecified compensatory damages, pre-judgment interest, punitive damages, attorney's fees and costs.

Respondent requested the Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

Respondent filed a Motion to Dismiss under Section 15 of the Code. Motion granted with respect to allegations of wrong-doing before April 13, 1983, and denied with respect to allegations of wrong-doing on or after April 13, 1983.

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.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the Arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

Respondent is found liable and shall pay to the Claimant the amount of \$180,000.00, plus interest at the rate of 10% per annum (from October 1, 1984 to October 3, 1994) in the amount of \$180,098.62 for a total due to the Claimant of \$360,098.62.

Claimant's request for attorney's fees and punitive damages is denied.

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Claimant's request for costs is granted and Respondent shall pay the Claimant a total of \$5,000.00 for such costs.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$10,350.00 (2 pre-hearing conferences with one arbitrator x \$300.00, 1 pre-hearing conference with full panel x \$750.00, plus 12 sessions x \$750.00 per session).

Respondent is hereby assessed \$10,350.00 for which the NASD shall retain the \$750.00 previously deposited by the Respondents and the \$1,300.00 previously deposited by the Claimants as partial satisfaction thereof, leaving a balance due of \$8,300.00 payable to the National Association of Securities Dealers, Inc.

The NASD shall retain the non-refundable filing fee of \$200.00 paid by the Claimant.

Respondent shall reimburse the Claimant \$200.00 for the non-refundable filing fee.

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Concurring Arbitrators' Signatures

/s/
Garry W. O'Donnell, Esq.

Public

/s/
John Darling

Industry

/s/
Rebecca J. Covey, Esq.

Public

Date of Decision: October 11, 1994