

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In The Matter of The Arbitration Between: :

ISRAEL SHURKIN :

CLAIMANT :

V. :

SMITH BARNEY, HARRIS UPHAM & CO.,
VINCENT AFFLIXIO AND
HARVEY RABINER :

RESPONDENTS. :

AWARD
#90-01390

CASE SUMMARY

The Statement of Claim was filed with the NASD, Inc. on May 15, 1990.

Claimant, Israel Shurkin alleged that Respondents, Smith Barney, Harris Upham & Co., (Smith Barney) Vincent Afflixio (Afflixio) and Harvey Rabiner (Rabiner), purchased stock in his name without providing him with a prospectus as required on new issue.

Respondents, Smith Barney, Afflixio and Rabiner, maintained that purchases were made properly with full knowledge and authorization of Claimant.

RELIEF REQUESTED

Claimant requested an award in the amount of \$10,628.00.

Respondent requested dismissal of the Claim.

AWARD

On January 8, 1991, the undersigned arbitrator heard the controversy between the Parties as set forth in submission to arbitration signed by the Claimant Israel Shurkin on June 4, 1990 by Respondent, Smith Barney, Harris Upham & Co., on August 6, 1990, by Respondent Vincent Afflixio, on November 7, 1990 and by Respondent, Harvey Rabiner, on July 24, 1990. The hearing was held in New York City and consisted of two (2) sessions. The arbitrator, 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:

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WARD-#90-01390

1. The Claims of the Claimant, Israel Shurkin, against Respondent, Harvey Rabiner, shall be and hereby are dismissed in all respects;
2. Respondents, Smith Barney, Harris Upham & Co. and Vincent Afflixio, are jointly and severally liable and shall pay to Claimant, Israel Shurkin, the sum of Two Thousand Nine Hundred Sixty Five Dollars and Thirty One Cents (\$2,965.31);
3. The Parties shall each bear their respective costs, including attorneys' fees;
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant;
5. Respondents, Smith Barney, Harris Upham & Co. and Vincent Afflixio are jointly and severally assessed forum fees in the amount of \$300.00 payable to the NASD, Inc. through its staff administrator in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATOR CONCURRING

/s/

Allen Kilik, Esq.
(Sole Public Arbitrator)

DATED BY NASD
FEBRUARY 1, 1991