

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, New York 10004

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In the Matter of the Arbitration BetweenName of Claimants

Israel Lopez and Luz Lopez JT/WROS

90-02635

Name of Respondent

Smith Barney, Harris, Upham and Company, Inc.

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REPRESENTATION

For Claimants: Marc A. White, Esq. of the Law Offices of Marc A. White.

For Respondent: Edward G. Turan, Esq. of Smith Barney, Harris, Upham and Company, Inc.

CASE INFORMATION

Statement of Claim filed: September 20, 1990.

Claimants' Submission Agreement signed on: August 22, 1990.

Statement of Answer filed: January 3, 1991.

Respondent's Submission Agreement signed on: December 27, 1990.

HEARING INFORMATION

Hearing Dates: July 11, 1991 and July 12, 1991.

Hearing Location: The hearing was conducted at the offices of the NASD located in Washington, DC and consisted of three (3) hearing sessions.

CASE SUMMARY

Claimants, Israel Lopez and Luz Lopez JT/WROS alleged that Respondent executed and recommended investments in Claimants' account that were unsuitable for them given their stated objectives and instructions, executed transactions without Claimants' authority, and breached the fiduciary duty owed to the Claimants and failed to properly supervise its account executive Robert Rubenstein. Respondent Smith Barney, Harris, Upham and Company, Inc. maintained the trading in Claimants' account was entirely consistent with the desires and objectives of the Claimants which was aggressive growth which would provide the opportunity for significant capital gains and their

financial resources as represented by them and each trade was discussed with the Claimant Israel Lopez in advance and was not unauthorized. Respondent further maintained the Claimant Israel Lopez is a sophisticated investor and at all times understood the risks inherent in the stocks he invested in. Respondent further maintained the account was handled in a professional manner and the recommendations of the account executive were based on his good faith and professional judgement supported by research reports and reviews of publicly available material prior to each recommendation.

RELIEF REQUESTED

Claimants requested compensatory damages of \$200,000.00, punitive damages of \$200,000.00 and attorney's fees of \$25,000.00.

Respondent requested dismissal of claim and that costs be awarded to Respondent.

AWARD


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

1. The Claim by the Claimants be and hereby is dismissed in all respects;
2. The parties shall each bear their respective costs, including attorneys' fees.
3. Pursuant to Section 43c of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$950.00 filing fee previously deposited by the Claimants. In addition, the Claimants be and hereby are liable and shall pay to the NASD, Inc. the sum of \$1,500.00 to represent forum fees.

ARBITRATION PANEL

Name

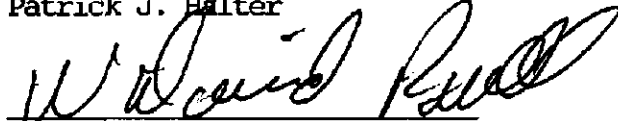
Public/Industry

  
John W. Johnson, Esq.

(Public Arbitrator)

  
Patrick J. Halter

(Public Arbitrator)

  
W. David Powell

(Industry Arbitrator)

Executed on:

~~Date of Decision:~~

2 August 91

Date of Decision: August 12, 1991