

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gary Thieret

90-03289

Name of Respondent

Smith Barney Harris Upham & Co., Inc.

FEB 26 1992

CHICAGO

REPRESENTATION

Claimant Gary Thieret was represented by William F. Meehan, Esq. of Carbondale, Illinois.

Respondent Smith Barney, Harris, Upham, & Co., Inc. was represented by H. Todd Iveson, Esq. of Green, Hoffmann & Dankenbring, St. Louis, Missouri.

CASE INFORMATION

The Statement of Claim was filed By Claimant Gary Thieret ("Thieret") on November 16, 1990.

Claimant's Submission Agreement signed on August 27, 1990 by Gary Thieret.

The Statement of Answer was filed by Respondent, Smith Barney, Harris, Upham & Co., Inc. ("Smith Barney") on July 24, 1991.

Respondent, Smith Barney's Submission Agreement signed on July 18, 1991 by Larry H. Irom, Managing Director.

HEARING INFORMATION

Hearing Date/Sessions: February 6, 1992 for two (2) sessions.

Hearing Location: St. Louis, Missouri.

CASE SUMMARY

Claimant. Gary Thieret ("Thieret") alleged that William Sanders, a broker with Respondent Smith Barney, Harris, Upham & Co., Inc. ("Smith Barney") executed unauthorized option trades for Thieret's brokerage account maintained at Smith Barney. Thieret alleged that he only authorized the sale of Leadville common stock. Thieret also alleged that his brokerage account was "churned" by Sanders and that Thieret's requests to liquidate his account were not honored in a timely fashion.

Smith Barney alleged that all trades in Thieret's account were authorized, approved and ratified and that Thieret fully understood the risks of trading options. Smith Barney alleged that the trades were in accordance with Thieret's investment objectives, that Thieret was mailed and he received confirmations and monthly statements of his account and that Smith Barney did nothing wrong and cannot be held liable for Thieret's losses.

RELIEF REQUESTED

Thieret requested out of pocket losses in the neighborhood of \$25,000.

Smith Barney requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DETERMINED

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 undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Smith Barney is liable for and shall pay to Thieret the sum of Sixteen

Thousand Dollars and No Cents (\$16,000.00); and,

2. The parties shall each bear their own costs, expenses and attorney's fees incurred in this matter.

FORM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed. The NASD shall retain the \$400.00 hearing session deposit and \$120.00 non-refundable claim filing fee paid by Thieret and Smith Barney is assessed and shall pay to the NASD as additional Forum Fees the sum of \$400.00. Forum Fees are calculated at the rate of \$400.00 per hearing session.

Pursuant to Section 30 of the NASD Code, the NASD shall also retain the postponement fee in the amount of \$400.00 paid by Smith Barney.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures
Name _____

William S. Rader
William S. Rader, Esq.
Presiding Chairman/Public Arbitrator

2/21/92
Dated

Charles Clardy, Esq.
Panelist/Public Arbitrator

Dated _____

Edwin R. Cohen
Panelist/Industry Arbitrator

Dated _____

Date Award Served by the NASD:

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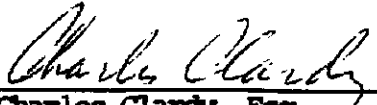
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Presiding Chairman/Public Arbitrator

Dated

Charles Clardy, Esq.
Panelist/Public Arbitrator

Dated



Edwin R. Cohen
Panelist/Industry Arbitrator

2-25-92

Dated

Date Award Served by the NASD: _____