

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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: In the Matter of the Arbitration Between :  
: :  
: Kenneth Shavelson :  
: Claimant : CASE# 90-03299  
: vs. : MODIFIED  
: : AWARD  
: Smith Barney Harris Upham & Co., Inc. :  
: Lenard Feldman :  
: Respondents :  
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Heard before:

Edward M. Sills, Esq.

Public Arbitrator

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 20, 1990, the Claimant Kenneth Shavelson alleged that Respondents Smith Barney Harris Upham & Co., Inc. and Lenard Feldman made an improper and unsuitable recommendation to purchase shares of Duriron Company in light of Claimant's trading and margin objectives, and Respondents' knowledge thereof. Respondents Smith Barney Harris Upham & Co., Inc. and Lenard Feldman alleged that the Claimant was knowledgeable and sophisticated, authorized the purchase of Duriron and that the loss if any, was due to market fluctuations and that the Claimant was aware of all risks.

RELIEF REQUESTED

Claimant requested damages of \$6,681.00, plus costs, interest and attorneys' fees. Respondents requested dismissal of claim and costs.

AWARD

On May 17, 1990 the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Kenneth Shavelson on November 2, 1990 and by Respondents Smith Barney Harris Upham & Co., Inc. and Lenard Feldman on December 19, 1990 and January 15, 1991, respectively. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. located in New York City, NY and consisted of one (1) hearing session. The Claimant was represented by James Marsh, Esq. of the law firm of O'Reilly & Marsh, P.C. and the Respondents were represented by

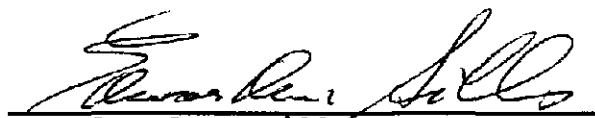
Linda Alpert, Esq. in house counsel for Smith Barney Harris Upham & Co., Inc. The arbitrator, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. The Respondent Smith Barney Harris Upham & Co., Inc. be and hereby is liable and shall pay to the Claimant Kenneth Shavelson the sum of Six Thousand Six Hundred Eighty One Dollars and No Cents (\$6,681.00), interest specifically excluded.
2. All claims against Respondent Lenard Feldman are dismissed.
3. The parties shall each bear their respective costs, including attorneys' fees.

**FORUM FEES**

Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$275.00 filing fee previously deposited by the Claimant and the Respondent Smith Barney Harris Upham & Co., Inc. shall reimburse the Claimant the \$275.00 filing fee.

**ARBITRATOR SIGNATURE**

  
Edward M. Sills, Esq.

Date of Decision: May 30, 1991

STATE OF

*NY*

S.S:

COUNTY OF

*NY*

On this *25<sup>th</sup>* day of *May*, 1991, before me personally appeared Edward M. Sills known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he/she executed the same

*Jill A. Vile*

JILL A. VILE  
NOTARY PUBLIC, State of New York  
No. 4876714  
Qualified in Nassau County  
Commission Expires Dec. 13, 19*91*