



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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

In the Matter of the Arbitration Between

Name of Claimants

George & Nadine Luther

91-00021

Name of Respondents

Smith Barney Harris Upham & Co., Inc.  
Ronald Bateh  
Jeffrey B. Morrison

REPRESENTATION

For Claimants: Barbara B. Stalzer, Esq.

For Respondents: David Levy, Esq.

CASE INFORMATION

Statement of Claim filed: December 31, 1990 - Amendment to Statement of  
Claim filed July 26, 1991.

Claimant's Submission Agreement signed on: December 13, 1990.

Respondent Smith Barney Harris Upham & Co., 's Submission Agreement signed  
on: March 8, 1991.

Respondent Ronald Bateh's Submission Agreement signed on: October 24, 1991.

Respondent Jeffrey B. Morrison's Submission Agreement signed on: October  
23, 1991.

Respondents Joint Statement of Answer filed on: March 12, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: August 28, 1991, 2 sessions  
August 29, 1991, 2 sessions  
October 11, 1991, 2 sessions

Hearing Location: The hearing was conducted at the offices of the  
National Association of Securities Dealers, Inc.  
located in Atlanta, Georgia.

#### CASE SUMMARY

Claimants alleged that Respondents executed unauthorized stock purchases in their account which resulted in a debit balance in their margin account and further resulted in an offset of the Claimants' income from investments to reduce the margin debit. The Claimants further maintained when signing the account papers given to them by Respondents they did not understand the meaning of a margin account.

Respondents Smith Barney Harris Upham & Co., Ronald Bateh and Jeffrey B. Morrison maintained the Claimants participated in the investment decisions in their account without complaint for over two years and the history of the account shows that Mr. Luther was well aware of the status of his account at all times and that he knowingly agreed from time to time to use margin to effect transactions in the account. Respondents further maintained Claimants ratified all transactions in Claimants' account and all trades were otherwise authorized.

#### RELIEF REQUESTED

Claimants requested damages of \$146,719.75 plus deletion of the margin account balance, punitive damages in the sum of \$50,000.00 plus reasonable attorneys' fees as well as the other attendant costs of bringing the action including accountants' fees.

Respondents requested dismissal of the claims in their entirety and that the costs be filed against the Claimants.

#### 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. All claims by the Claimants against all Respondents be and hereby are dismissed in all respects.
2. The Claimants request for punitive damages be and hereby is denied.
3. The parties shall each bear their respective costs, including attorneys' fees.

#### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

6 sessions X \$750.00 = \$4,500.00 minus hearing session deposit of  
\$750.00 = net \$3,750.00.

The Respondent Jeffrey B. Morrison be and hereby is liable and shall pay to the Claimants the sum of \$950.00 to reimburse them for the claim filing fee and hearing session deposit paid and the Respondent Jeffrey B. Morrison be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$3,750.00 to represent forum fees.

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

ARBITRATION PANEL

  
Roger A. Kirschenbaum, Esq.  
Public Arbitrator

  
Robert N. Leitch  
Public Arbitrator

  
Terry R. Weiss  
Industry Arbitrator

Dated by NASD: November 14, 1991