

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Mildred Lee Firak  
Mildred L. Firak as Trustee FBO Mildred L. Firak Trust Dated  
1/31/89

91-00733

Name of Respondents

Smith Barney Harris Upham & Co., Inc.  
Scott Altman

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REPRESENTATION

For Claimants ("Claimants"): Fredric E. Kramer of McNeal, Schick  
et al.

For Respondents Smith Barney Harris Upham & Co., Inc. ("SBHU")  
and Scott Altman ("Altman"): Linda Alpert of SBHU.

CASE INFORMATION

Statement of Claim filed: February 28, 1991.  
Amended Statement of Claim filed: August 14, 1991.  
Claimant Mildred Firak's Submission Agreement signed on: January  
15, 1991. Pursuant to Section 12 of the Code of Arbitration  
Procedure, Claimant, Mildred L. Firak as Trustee FBO Mildred L.  
Firak Trust dated 1/31/89's submission agreement was not signed  
and notarized.

Joint Statement of Answer filed by Respondents on: May 23, 1991.  
Joint Answer to Amendment of Claim and Motion to Add Necessary  
Party filed by Respondents on: August 26, 1991.  
Respondent, SBHU's Submission Agreement signed on: May 23, 1991.  
Respondent, Altman's Submission Agreement signed on: May 7, 1991.

HEARING INFORMATION

Hearing Date/Sessions: November 21, 1991/2 sessions.  
Hearing Location: NASD, Inc./Cleveland, OH.

CASE SUMMARY

Claimants alleged Altman sold Cetus Corp. and Cigna High Income  
Fund without her authorization. Claimants also asserted Altman  
bought Chevron prime, Blackstone Target Term Trust, First

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Australia Prime Income Fund, Dow prime and G.M. prime all through unauthorized transactions. Claimants admitted that when Altman said he wanted to sell the Chevron prime Claimants authorized that transaction as it would cut losses. Claimants further stated the proceeds from Chevron were used to buy American Home Products Company, again without authorization. Claimants also alleged that complaints to SBHU were not met with assistance.

Respondents alleged all transactions were expressly authorized and approved by Claimants, the account value increased substantially and that the claims should be dismissed. Respondents also moved to add as Claimant, Mildred L. Firak as Trustee FBO Mildred L. Firak Trust Dated 1/31/89.

RELIEF REQUESTED

Claimants requested: actual damages in the amount of \$9,672.00; lost opportunity damages in the amount of \$2,840.00; medical bills, medication, physical injury, emotional injury and personal injury in the amount of \$50,995.00; punitive damages in the amount of \$30,000.00; expenses; interest, attorneys' fees; filing fee and arbitrators' fees.

Respondents requested: the Statement of Claim be dismissed in its entirety and costs.

OTHER ISSUES CONSIDERED & DECIDED

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- The claims of the Claimants hereby are denied;
- 2- The claim of Respondents to add as Claimant, Mildred L. Firak as Trustee FBO Mildred L. Firak Trust Dated 1/31/89 is granted;

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- 3- All other claims are dismissed;
- 4- The parties shall each bear their own costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$150.00 filing fee previously deposited by Claimant and the following Forum Fee are assessed.

2 sessions X \$500.00 = \$1,000.00

Forum fees Assessed Against:

- 1- Claimants in the amount of \$500.00; however, Claimants may use the \$500.00 hearing session deposit previously deposited to offset the amount due and owing;
- 2- Respondents, jointly and severally, in the amount of \$500.00.

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

CONCURRING ARBITRATOR



Gary M. Bash/Public Arbitrator

Date of Decision: December 16, 1991

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CONCURRING ARBITRATOR

  
Joseph W. Grossner/Public Arbitrator

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CONCURRING ARBITRATOR

Robert K. Beattie

Robert K. Beattie/Industry Arbitrator

Date of Decision: December 16, 1991