

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Bernard E. McFarland :

Claimant :

vs. :

Smith Barney Harris Upham & Co., Inc. :
Gary S. Lemer :

Respondents :

PUBLIC

**CASE #91-02762
AWARD**

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 4, 1991, Claimant Bernard E. McFarland, who appeared Pro Se, alleged that Respondents Smith Barney Harris Upham & Co., Inc. and Gary Lemer churned his bond account and made errors regarding the sale of New York State Bonds, sold bonds without his authorization, and were evasive concerning sale dates. The Claimant further alleged that the Respondents did not provide full information on certain bonds purchased and misrepresented interest and profits to be made, and further alleged that Respondents were only interested in profits for themselves.

Respondents, Smith Barney Harris Upham & Co., Inc. and Gary Lemer, through their in-house counsel, Linda R. Alpert, maintained that they are not liable for Claimant's alleged damages, and that Respondent Gary Lemer never bought or sold any securities in Claimant's account without his permission. The Respondents also maintained that the Claimant's account was never churned and he was always provided with full information regarding recommended trades.

RELIEF REQUESTED

Claimant, Bernard E. McFarland requested \$10,000.00 in actual damages.

Respondents, Smith Barney Harris Upham & Co., Inc. and Gary Lemer requested the claims of the Claimant be dismissed.

AWARD

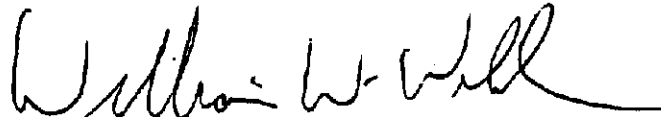
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, William W. Welch, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 30, 1991, by the Respondent Gary Lemer on October 24, 1991 and by the Respondent Smith Barney Harris Upham & Co., Inc. on November 7, 1991.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Bernard E. McFarland against Respondents Smith Barney Harris Upham & Co., Inc. and Gary Lemer are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, WILLIAM W. WELCH, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

6/11/92

Executed
DATE: ~~XXXXXXXXXX~~

NASD DATE OF DECISION: June 16

June 16, 1992