

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Bruce Christopher Quill

vs.

NASD #91-03384

Name of Respondents

Smith Barney Harris Upham & Co., Inc.  
Patrick Gabrielli

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REPRESENTATION

For Claimant: Mitchell C. Green, Esq., Los Angeles, California

For Respondents: Larry H. Iron, Esq., Smith Barney Harris Upham & Co., New York, New York

CASE INFORMATION

Statement of Claim filed: October 28, 1991

Claimant's Submission Agreement signed: November 18, 1991

Statement of Answer filed by Respondents: February 6, 1992

Respondents' Submission Agreements signed:

Smith Barney Harris Upham & Co., Inc.: February 4, 1992

Patrick Gabrielli: January 8, 1992

HEARING INFORMATION

Prehearing Conference Date/Sessions: August 3, 1992 - one session

Hearing Date/Sessions: August 6, 1992 - two sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant alleged fraud, misrepresentation, breach of fiduciary duty, lack of suitability, excessive trading, unauthorized transactions and lack of supervision in the purchase of shares of various stocks.

Respondents denied all substantive allegations of the Statement of Claim and alleged assumption of risk, authorization, waiver, ratification and due diligence.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages of approximately \$33,000.00;
2. Interest at the statutory rate from the date of loss to the present;
3. Punitive damages;
4. Costs and attorneys' fees; and
5. Such further relief as deemed just and proper.

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 National Association of Securities Dealers (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. Respondent Gabrielli is liable for and shall pay Claimant 75% and Respondent Smith Barney Harris Upham & Co. is liable for and shall pay Claimant 25% of the following:
  - A) Compensatory damages of \$30,730.00;
  - B) Punitive damages of \$30,000.00;
2. All other claims are dismissed;
3. The parties shall each bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall refund the \$400 hearing session fee previously deposited by the Claimant. Forum Fees assessed against Respondents are for 75% against Patrick Gabrielli and 25% against Smith Barney Harris Upham & Co., calculated as follows: two hearing sessions times \$400.00/session equals \$800.00, Patrick Gabrielli to pay \$600.00 and Smith Barney Harris Upham & Co. to pay \$200.00.

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

ARBITRATION PANEL

Name

Public/Industry

Concurring Arbitrators' Signatures

Irving Porush

Public Arbitrator

Roberta Haft

Industry Arbitrator

Libbe R. Murex, Esq.

Public Arbitrator

DATE SERVED: 09/15/92

Libbe R. Murex  
Libbe R. Murex, Esq.

Date of Decision: \_\_\_\_\_