

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

L. Eloise Hoyt :

Claimant :

vs. :

Smith Barney, Harris Upham & Co., Inc. :

Herbert T. Hahs :

William Rothmann :

Richard Selig, Jr. :

Respondents :

CASE #92-00885
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 13, 1992, Claimant L. Eloise Hoyt who appeared Pro Se, alleged that Respondents Smith Barney, Harris Upham & Co., Inc., Herbert T. Hahs, William Rothmann and Richard Selig, Jr., misrepresented information regarding an investment in Healthvest, Inc. stock, which did not comply with her investment objective of safety with income. The Claimant further alleged that although the stock dropped, Respondent William Rothmann, who was her broker, told her to hold onto the shares, causing a loss.

Respondents, Smith Barney, Harris Upham & Co., Inc., Herbert T. Hahs, William Rothmann and Richard Selig, Jr., through their in-house counsel, Linda R. Alpert, Esq., maintained that she had requested a security in the health industry, and that Respondent William Rothmann had a good-faith basis for recommending this stock. The Respondents further maintained that she could have sold the stock after reviewing the prospectus if she was dissatisfied, but instead held onto the stock for five and one half years.

RELIEF REQUESTED

Claimant, L. Eloise Hoyt requested \$8,500.00 in actual damages.

Respondents, Smith Barney, Harris Upham & Co., Inc., Herbert T. Hahs, William Rothmann and Richard H. Selig, Jr. 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, Owen Guinn Smith, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 6, 1992, by the Respondent, Smith Barney, Harris Upham & Co., Inc. on April 27, 1992, by Respondent, Richard Selig, Jr. on April 8, 1992 and by Respondent, Herbert Hahs on March 27, 1992 on March 27, 1992, Respondent, William Rothmann failed to submit a submission agreement as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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 L. Eloise Hoyt against Respondents, Smith Barney, Harris Upham & Co., Inc., Herbert T. Hahs, William Rothmann and Richard Selig, Jr. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, OWEN GUINN SMITH, 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

DATE OF DECISION: August 24, 1992