

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Janet Perry Matz

NASD Arbitration
No.92-01089

Name of Respondent(s)

Smith Barney, Harris Upham & Co., Inc.
Jay Helle

REPRESENTATION

For Claimant: Timothy C. Karen, Esq., San Diego, California

For Respondent: Judith C. Greene, Esq., Smith Barney, Harris Upham & Co., Inc.,
New York, New York

CASE INFORMATION

Statement of Claim filed: March 26, 1992

Claimant's Submission Agreement signed: February 18, 1992

Joint Statement of Answer filed: June 22, 1992

Respondents' Submission Agreements signed:

Smith Barney:	June 17, 1992
Jay Helle:	May 13, 1992

HEARING INFORMATION

Hearing Date(s)/Sessions:

December 4, 1992 - Two sessions
December 5, 1992 - Two sessions

Hearing Location: San Diego, California

CASE SUMMARY

Claimant alleged Respondents recommended the purchase of a limited partnership investment which was not suitable for Claimant's investment objectives, financial status and level of sophistication. Claimant further alleged misrepresentation, fraud and failure to supervise.

Respondents denied Claimant's allegations, and asserted that Claimant failed to state facts sufficient to constitute a cause of action, that the causes of action asserted are time-barred, that Claimant failed to mitigate damages, and that Claimant ratified all securities transactions.

RELIEF REQUESTED

Claimant requested special damages of \$26,000.00, plus interest, punitive damages, attorney's fees and costs of arbitration.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED & DECIDED

This case was originally filed in the Superior Court of California, County of San Diego, Case Number 644127 1CJ Greer, and voluntarily withdrawn without prejudice by Claimant on January 3, 1991.

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, and post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Smith Barney, Harris Upham & Co., Inc., and Jay Helle are jointly and severally liable for and shall pay to Claimant the sum of \$10,545.00., inclusive of interest.
2. The claim for punitive damages is dismissed.
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 NASD shall retain the \$300.00 hearing session fee previously deposited by Claimant as an assessment of forum fees for one session.

In addition, Respondents are jointly and severally assessed forum fees of \$900.00 (\$300/session for 3 sessions). Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

Public/Industry
Public Chairperson
Public Panelist
Industry Panelist

signatures

Gunnar Thowsen
Gunnar Thowsen

Date of Decision: 1/13/93

XXXXXX Served 2/18/93