

## N.A.S.D. AWARD

## NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Alvin Bergman and Enriquetta Bergman

93-00302

Name of Respondents

Smith Barney Harris Upham & Co., Inc.  
Richard R. Fulton

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 28, 1993, Claimants Alvin & Enriquetta Bergman, who appeared Pro Se, alleged that Respondent Richard Fulton of the Respondent firm Smith Barney Harris Upham & Co., Inc. recommended they purchase Global Government Bond Fund, which they were assured involved no risk and no sales charge. The Claimants further alleged that Respondent Richard R. Fulton misrepresented the facts, because they were charged a service charge, and also because the investment decreased in value. The Claimants contended that they have suffered losses due to the Respondents' wrongdoing.

Respondents Smith Barney Harris Upham & Co., Inc. and Richard R. Fulton, in a Joint Statement of Answer, through their in-house counsel, Linda R. Alpert, Esq., maintained that the Claimants were advised of all material facts concerning the bond fund, and that this was a suitable investment considering their objectives, net worth and trading history. The Respondents further maintained that no guarantees were given on this investment, and that they should not be held liable in this matter.

In a Reply to the Statement of Answer, Claimants Alvin & Enriquetta Bergman refuted the defenses utilized by the Respondents and alleged that the Respondents are being untruthful in their Statement of Answer.

**RELIEF REQUESTED**

Claimants Alvin & Enriquetta Bergman requested \$4,550.00 in actual damages.

Respondents Smith Barney Harris Upham & Co., Inc. and Richard R. Fulton requested that the claims of the Claimants be dismissed.

**AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Burt R. Rose, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on March 2, 1993, by Respondent Richard R. Fulton on April 20, 1993 and by Respondent Smith Barney Harris Upham & Co., Inc. on April 26, 1993.

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 Claimants Alvin and Enriquetta Bergman against Respondents Smith Barney Harris Upham & Co., Inc. and Richard R. Fulton are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

**AFFIRMATION**

I, BURT R. ROSE, 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 3, 1993