

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Gordon G. Sherard, Jr.

93-00875

Name of Respondent

Smith Barney, Harris Upham & Co., Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 9, 1993, Claimant Gordon G. Sherard, Jr., who appeared Pro Se, alleged that in January 1991 he signed transfer papers to move his IRA account from Respondent Smith Barney, Harris Upham & Co., Inc. to Edgar M. Norris & Co. and the contents of this account consisted of \$2,200.00 in cash plus 2,000 shares of First Executive Corp. ("FEXC"). Claimant further alleged that unbeknownst to him, Respondent failed to complete the transfer. Claimant contended that the price of FEXC had previously had dramatic swings whereby Claimant followed it in the paper everyday and subsequently, on March 20, 1991, it rallied, at which time, Claimant contacted Edgar M. Norris & Co. to sell the stock and was advised that the stock had not been received. Claimant further contended that while trying to locate the stock, the price collapsed, and the stock became worthless. Claimant asserted that neither the Trustee nor Respondent acted with proper care in handling a Trust account, and neither had in place proper procedures to assure against the type of mistake which happened.

Respondent Smith Barney, Harris Upham & Co., Inc. by and through their in-house counsel Linda R. Alpert, Esq., maintained that their records show that the first time they received instructions to transfer Claimant Gordon G. Sherard's account was on August 1, 1991, when Respondent received a letter from Delaware Charter Guarantee and Trust Company, the Trustee, dated July 25, 1991, which does not indicate that there were any previous transfer instructions sent to Respondent involving Claimant's account. Respondent further maintained that Claimant's account statements show that his First Executive stock remained in his account with Respondent from the date of purchase in January 1990 through the date of transfer to Edgar M. Norris & Co. in September 1991 thus, Claimant's statement that he could not locate his stock makes

absolutely no sense, in that Claimant only needed to look at his account statements. Respondent contended that Claimant admittedly did not contact them to sell the stock, thus Respondent could not have caused his alleged loss.

RELIEF REQUESTED

Claimant Gordon G. Sherard, Jr. requested \$2,875.00 in actual damages.

Respondent Smith Barney, Harris Upham & Co., Inc. requested the claim be dismissed and costs be assessed against Claimant.

AWARD

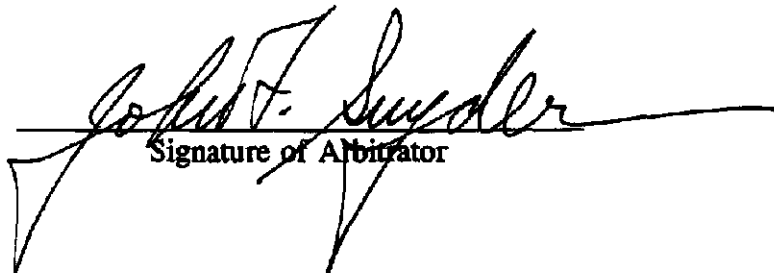
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John F. Snyder, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 3, 1993 and by the Respondent on May 5, 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 claim of Claimant Gordon G. Sherard, Jr. against Respondent Smith Barney, Harris Upham & Co., Inc. is dismissed.
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 Claimant Gordon G. Sherard, Jr. shall be retained by the NASD, Inc.

AFFIRMATION

I, JOHN F. SNYDER, ESQ., 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: July 14, 1993