

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Mariam Gulezian

93-02542

Name of Respondents

Smith Barney Harris Upham & Co., Inc.
Joseph Orazio Giunta

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 28, 1993, Claimant Mariam Gulezian, who appeared Pro Se, alleged that Respondents Smith Barney, Harris, Upham & Co., Inc. and Joseph Orazio Giunta solicited her and put unreasonable and undue pressure on her to invest money she had just received from an inheritance fund into mutual funds. The Claimant further alleged that the Respondents misrepresented that there would be no risk to her capital, but that the value of the investments declined substantially. The Claimant contended that Respondent Joseph Orazio Giunta was negligent in failing to ascertain her financial circumstances and as a result, advised her to invest in unsuitable investments with respect to her financial situation and her investment objectives. The Claimant further alleged that Respondent Smith Barney, Harris Upham & Co., Inc. failed to adequately train and supervise its employee, Respondent Joseph Orazio Giunta.

Respondents Smith Barney, Harris Upham & Co., Inc. and Joseph Orazio Giunta, by and through their in-house counsel, Ann Parry, Esq., maintained that the portfolio of mutual funds that were recommended to the Claimant was designed to give her income and appreciation, and that Respondent Joseph Orazio Giunta stressed to the Claimant that the investment was to be for the long term. The Respondents further maintained that the Claimant was provided with prospectuses, which were discussed with her. The Respondents contended that the investments were suitable for the Claimant and would have been profitable if she had not panicked and sold them prematurely.

RELIEF REQUESTED

Claimant Mariam Gulezian requested \$4,300.00 in actual damages, plus punitive damages in an amount not to exceed the amount allowable in Simplified Arbitration.

Respondents Smith Barney, Harris Upham & Co., Inc. and Joseph Orazio Giunta requested that the Claimant's Statement of Claim be dismissed in its entirety.

AWARD


Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Judith Gross, 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 June 17, 1993, by the Respondent Smith Barney, Harris Upham & Co., Inc. on November 16, 1993 and by Respondent Joseph Orazio Giunta on November 17, 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. Respondents Smith Barney, Harris Upham & Co., Inc. and Joseph Orazio Giunta are jointly and severally liable and shall pay to Claimant Mariam Gulezian \$2,461.00 in actual damages.
2. Respondents Smith Barney, Harris Upham & Co., Inc. and Joseph Orazio Giunta are jointly and severally liable and shall pay to Claimant Mariam Gulezian simple interest at the rate of 4% from September 1, 1988 to the date of payment of the Award.
3. The Claimant's request for punitive damages is denied.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents Smith Barney, Harris Upham & Co., Inc. and Joseph Orazio Giunta are jointly and severally liable and shall pay to Claimant Mariam Gulezian \$150.00 as reimbursement of the filing fee.

AFFIRMATION

I, **JUDITH GROSS, 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

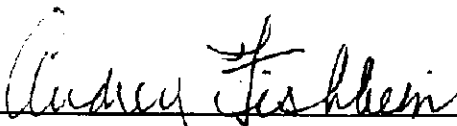
DATE OF DECISION: April 27, 1994

STATE OF: **NEW YORK**

SS:

COUNTY OF: **NEW YORK**

On this 18th day of April 1994, before me personally appeared **Judith Gross, Esq.**, to me known and known before me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.



AUDREY FISHBEIN
Notary Public, State of New York
No. 24-4956221
Qualified in Kings County
Certificate filed in New York County
Commission Expires September 11, 1995