

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Robert J. Muir

93-03507

Name of Respondents

Shearson Lehman Brothers, Inc. n/k/a  
Smith Barney Shearson, Inc.  
Alan Rowell

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**CASE SUMMARY :**

In a claim filed with the National Association of Securities Dealers, Inc. on September 9, 1993, Claimant Robert Muir, who appeared Pro Se, alleged that Respondent Smith Barney Shearson, Inc., through its registered representative, Respondent Alan Rowell, advised him to sell his TRW Inc. stock, as he and the firm believed it was going to decline in value. The Claimant alleged that upon the advice of his broker, he sold the stock, only to discover that it had risen in value, causing him a needless loss of \$1,814.00 for which the Respondents should be held liable.

Respondents Smith Barney Shearson, Inc. and Alan Rowell, through in-house counsel, John P. Bevilacqua, Esq., New York, NY, maintained that the broker was looking out for the Claimant's best interest when he recommended he sell his TRW Inc. stock and realize a gain. The Respondents contended that the Claimant did not allege that either Smith Barney Shearson, Inc. or its broker engaged in any wrongdoing or acted improperly in any way. The Respondents further contended that while they regret the Claimant was not able to benefit by the additional increase, they are not responsible for market conditions, and therefore, the claims against them should be dismissed.

**RELIEF REQUESTED**

Claimant Robert J. Muir requested \$1,814.00 in actual damages.

Respondents Smith Barney Shearson, Inc. and Alan Rowell requested the claims of the Claimant be dismissed.

**AWARD**

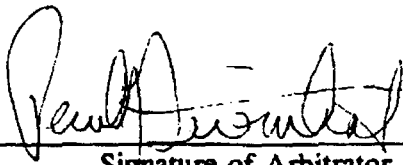
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Paul J. Derenthal, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 2, 1993, by the Respondent Smith Barney Shearson, Inc. on October 26, 1993 and by the Respondent Alan Rowell on October 28, 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 Claimant Robert J. Muir against Respondents Shearson Lehman Brothers, Inc. n/k/a Smith Barney Shearson, Inc. and Alan Rowell 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, **PAUL J. DERENTHAL, 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.

  
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Signature of Arbitrator

DATE OF DECISION: August 1, 1994