

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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**In the Matter of the Arbitration Between**

**Name of Claimant**

Richard R. Storer

94-00128

**Name of Respondents**

Shearson Lehman Brothers, Inc. n/k/a Smith Barney, Inc.  
Shane Mathe  
Charles Phelps  
Charles J. Smith

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on January 6, 1994, Claimant Richard Storer, who appeared Pro Se, alleged that Respondents Shearson Lehman Brothers, Inc. n/k/a Smith Barney, Inc., Shane Mathe, Charles Phelps and Charles I. Smith misrepresented to him the common stock of System Industries, Inc., recommending he purchase the stock without giving him complete information. Claimant Richard R. Storer further alleged that Respondent Shane Mathe, the branch office manager during the period in question, was negligent in his supervision of Respondent Charles J. Smith, who was the Claimant's broker and further that Respondent Smith Barney, Inc. failed to provide supervision and training to its personnel. The Claimant contended that due to the wrongdoing of the Respondents, he has suffered damages for which the Respondents should be held liable.

Respondents Smith Barney, Inc., Shane Mathe, Charles Phelps and Charles J. Smith, through its Associate General Counsel, Ellen Slipp, Esq., maintained that the Claimant had indicated that the investment in Systems Industries, Inc. common stock was suitable for his investment objectives after Respondent Charles J. Smith provided him with information on System Industries, Inc. debt obtained through Standard and Poor's and the Dow Jones News Service. Additionally, Respondent Smith Barney, Inc. submitted a copy of the New Account form filled out by the Claimant before Claimant purchased the stock in question in which Claimant indicated that his investment objectives were "Appreciation with Risk". Respondents also maintained that branch manager, Respondent Shane Mathe, was well aware of the activities of his financial consultants and was in no way guilty of negligent supervision.

The Respondents further contended that the Claimant has maintained several other accounts with Smith Barney, Inc. to this day and has not filed any other complaints nor has he complained of negligent supervision relating to these other investments, and that this is a meritless claim, which should be dismissed.

### **RELIEF REQUESTED**

Claimant Richard R. Storer requested \$9,662.06 in actual damages.

Respondents Smith Barney, Inc., Shane Mathe, Charles Phelps and Charles J. Smith requested that the claim of the Claimant be dismissed, that they be awarded costs and reasonable attorney's fees, and such other relief which may be deemed just and proper.

### **AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Paul J. Derenthal, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Richard R. Storer on January 6, 1994, by the Respondent Smith Barney, Inc. on February 22, 1994, by Respondent Charles Phelps on April 4, 1994, and by Respondent Shane Mathe on April 4, 1994. Respondent Charles J. Smith failed to sign a Submission Agreement as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

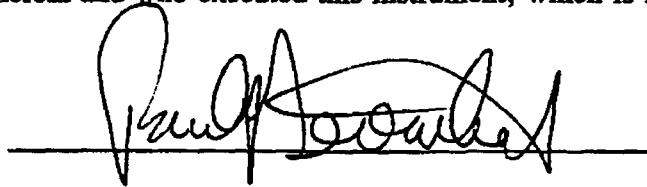
And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Smith Barney, Inc., Shane Mathe and Charles J. Smith are jointly and severally liable and shall pay to Claimant Richard R. Storer \$6,662.06 in actual damages.
2. The claims of Claimant Richard R. Storer against Respondent Charles Phelps are dismissed in their entirety.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Richard R. Storer, shall be retained by the NASD, Inc. Respondents Smith Barney, Inc., Shane Mathe and Charles J. Smith are jointly and severally liable and shall pay \$150.00 to the Claimant as reimbursement of the filing fee.

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**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.

A handwritten signature in black ink, appearing to read "Paul J. Derenthal", is written over a horizontal line.

DATE OF DECISION:      November 1, 1994