

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Theodore H. Lutz

94-00613

Name of Respondents

Smith Barney Shearson, Inc. (n/k/a Smith Barney, Inc.)
Joseph Lonski

REPRESENTATION

Claimant Theodore H. Lutz ("Claimant") was represented by Lawrence R. Gelber, Esq. of the law firm of Beigel Schy Lasky Rifkind Goldberg Fertik & Gelber, New York, New York.

Respondents Smith Barney, Inc. ("Smith Barney") and Joseph Lonski ("Lonski") were represented by Linda R. Alpert, Associate General Counsel, Smith Barney, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed: February 17, 1994

Claimant's Submission Agreement signed on: February 15, 1994

Statement of Answer filed by Respondents Smith Barney and Lonski ("Respondents") on: June 2, 1994

Smith Barney's Submission Agreement signed on: undated

Joseph Lonski's Submission Agreement signed on: May 24, 1994

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HEARING INFORMATION

Hearing Date/Sessions: May 16, 1995 - two sessions
Hearing Location: NASD District Office, Philadelphia, PA

CASE SUMMARY

Claimant alleged, among other things, that Lonski made material misrepresentations to Claimant to induce him to purchase three limited partnerships. Claimant alleged that these investments were unsuitable. Claimant alleged that Respondents failed to diversify his holding and that they concentrated Claimant's monies in speculative limited partnerships. Claimant alleged that Respondents breached their fiduciary duty owed to Claimant and that the limited partnerships selected for Claimant were chosen for Respondents benefit at Claimant's expense.

Respondents categorically denied all allegations of wrongdoing asserted by Claimant. Respondents maintained that all risks were fully disclosed to Claimant and that no misrepresentations were made. Respondents maintained that the three limited partnerships were suitable for Claimant at the time the investment was made.

RELIEF REQUESTED

Claimant in his pleading sought total damages of \$71,409.

Respondents requested that the Claimant's claim be dismissed with costs assessed against Claimant.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs except as specifically addressed below.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed.

2 sessions X \$500 = \$1,000 minus hearing session deposit of \$500 =
net \$500 due.

Forum Fees Assessed Against Claimant so that Claimant shall pay forum fees in the amount of \$500.

Fees are payable to the National Association of Securities Dealers, Inc.

By the Arbitration Panel:

Name

Public/Industry

James A. Jennings, Esq.
James A. Jennings, Esq.

Public

Paul A. Yates

Roger L. Dietz

Date Award Served by NASD: June 26, 1995

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