

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Jason L. Brenden

94-01710

Name of Respondents

Smith Barney Shearson, Inc.
and R. Thomas Vosburgh

Representation of Parties

Claimant Jason L. Brenden was represented at the hearing by Philip H. Hart, Esq. of UAW-Chrysler Legal Services Plan, Belvidere, Illinois.

Respondents, Smith Barney Shearson, Inc. and R. Thomas Vosburgh were represented at the hearing by Ellen Slipp, Esq. of Smith Barney, Inc., New York, New York.

Case Information

The Statement of Claim was filed on May 26, 1994. Uniform Submission Agreement was signed on May 3, 1994 by Jason Brenden (hereinafter, "Claimant").

The joint Statement of Answer was filed on July 14, 1994. Uniform Submission Agreement was signed on July 8, 1994 by Smith Barney Shearson, Inc. (hereinafter, "Smith Barney"). Uniform Submission Agreement was signed on July 6, 1994 by R. Thomas vosburgh (hereinafter, "Vosburgh").

Hearing Information

The hearing was held on February 22, 1995 for two (2) sessions and on February 23, 1995 for two (2) sessions in Chicago, Illinois for a total of four (4) hearing sessions.

Case Summary

Claimant alleged in his Statement of claim that Respondent Vosburgh, while employed by Respondent Smith Barney, purchased for his account high risk, highly speculative securities, falsely marked as "unsolicited" trades, falsified data on a Financial Data Information sheet, and portrayed the securities as safe and highly profitable. Claimant alleged he was induced to buy the following: Topps Co., Inc., Micro Health Systems, Inc. stock, Compression Labs stock, Circon stock, and United States Surgical Group.

Claimant further alleged that Smith Barney and Vosburgh breached NASD rules, committed fraud, violated federal securities law, and state securities laws, and breached fiduciary duties.

Respondents Smith Barney and Vosburgh deny any liability in their joint Statement of Answer. Respondents alleged that claimant authorized all the purchases that were made for his account. Respondents also stated that claimant indicated to Vosburgh that he would like to trade options. Respondents stated that claimant was provided an opportunity to update any information in the Financial Data Information sheet.

Relief Requested

Claimant requested an award for out-of-pocket losses in the amount of \$28,000.00; interest at 10%; attorney's fees in the amount of \$5000.00; punitive damages, rescission of all transactions and payment of all monies necessary to make claimant whole; and any other relief that the Panel deems just and fair.

Respondents Smith Barney and Vosburgh requested that the Statement of Claim be dismissed in its entirety.

Other Issues Considered and Decided

The parties present at the hearing have agreed that the Award in this matter may be executed by 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 original remains on file with the NASD.

Award

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

1. Respondents, Smith Barney Shearson, Inc. and Thomas Vosburgh, shall be and hereby are jointly and severally liable for, and shall pay to the Claimant, Jason Brenden, damages in the amount of Twenty Nine Thousand, Seven Hundred Twenty Dollars and Ninety Cents (\$29,720.90);
2. Claimant's request for attorney's fees is denied;
3. Claimant's request for interest is denied;

4. Claimant's request for punitive damages is denied;
5. Claimant's request for rescission is denied;
6. Each of the parties shall bear his or its own costs and expenses, other than those specifically set forth herein.

Forum Fees

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the following forum fees are assessed:

four hearing sessions X \$400 = \$1600 minus \$400 = net \$1200 due to the NASD.

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$100, and shall retain the hearing session deposit in the amount of \$400 previously paid to the NASD by the Claimant.

The additional forum fees in the amount of \$1200 are assessed against Respondent, Smith Barney Shearson. The additional forum fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

By The Arbitration Panel:

Dated:

April 28, 1995 s/s Samuel Weisbard, Esq.
 Samuel Weisbard, Esq.
 Presiding, Public Arbitrator

April 11, 1995 s/s James N. D'Orso
 James N. D'Orso
 Public Arbitrator

April 12, 1995 s/s R. Gerald Baker
 R. Gerald Baker
 Industry Arbitrator

Date Award Served By The NASD: May 2, 1995