

**NATIONAL ASSOCIATION OF SECURITIES DEALERS
AWARD**

In the Matter of the Arbitration Between

Susan Toch,

Claimant,

v.

NASD No. 95-243

Smith Barney Shearson and
Gary Peterson,

Respondents.

Representation

For Claimant: Pro se, Berkeley, California

For Respondents: Ellen Slipp, Esq. of Smith Barney Shearson, New York, New York

Case Information

Statement of Claim filed: January 17, 1995

Claimant's Submission Agreement signed: January 12, 1995

Statement of Answer filed on: April 11, 1995

Respondents' Submission Agreement signed on: Smith Barney Shearson - April 11, 1995,
Gary Peterson - April 21, 1995

Hearing Information

Prehearing Conference Date(s)/Sessions: December 4, 1995/one

Hearing Date/Sessions: December 5 and 6, 1995/two sessions each day

Hearing Location: San Francisco, California

Case Summary

Claimant Susan Toch (Toch) alleged failure to disclose, violation of registration laws of Massachusetts and the Idaho Securities Act and lack of suitability in the purchase of Shearson Managed Governments Inc. mutual fund (Fund). Claimant alleged that she invested \$80,000 in the Fund under the guidance and advice of respondent Gary Peterson but was never furnished with a prospectus. Claimant further alleged that Peterson was not licensed to sell shares in Massachusetts, which was her residency and of which Peterson was advised. Toch also alleged that she was not advised that any sales charge was associated with the purchase and that the net asset value of the shares could fluctuate; she specifically indicated to Peterson that she was not willing to lose any of the investment. She maintained that she was informed the Fund was a conservative investment and she would not lose any principal.

Respondents alleged that Toch was a graduate student at the time of the investment and to accommodate her lifestyle the Fund was recommended to provide income, liquidity and safety of capital. Respondents alleged that Toch gained more than \$30,000 on her \$80,000 investment over the course of four and one half years and therefore did not lose money on the investment. Respondents further alleged that claimant did not inform them until the filing of this claim that she was a resident of Massachusetts and communications were initiated and continued with her at Waterloo, Ontario; Toch also moved seven times while her account was with respondents. Respondents also alleged that Toch was provided a prospectus and told about the fluctuating net asset value

Relief Requested

Claimant requested:

1. Compensatory damages of \$5,460 for a tax loss;
2. Interest of \$26,458;
3. Loss of use of funds for three years at six percent, or \$5,054;

Other Issues Considered and 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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims are dismissed;
2. The parties shall each bear their respective attorney's fees;
3. The parties shall each bear their respective costs.

Other Costs

None.

Forum Fees

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$200 hearing session deposit previously paid by the claimant; the correct hearing deposit is \$400 and correct non-refundable filing fee is \$120 for a amount in controversy of \$31,512. Forum fees are assessed against claimant for \$200 and respondent Smith Barney Shearson for \$800, calculated as follows:

Total forum fees assessed (one prehearing conference @ \$300/session and four sessions @ \$400/session)	\$	1,900
Claimant's assessment for balance due on incorrect non-refundable fee		45
Claimant's forum fee assessment		200
Claimant's balance due		45
Respondent Smith Barney Shearson's assessment		800

No adjournment fees were assessed.

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

Arbitration Panel

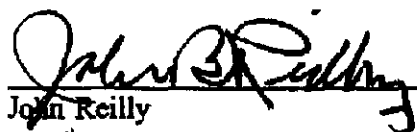
Name

Public/Industry

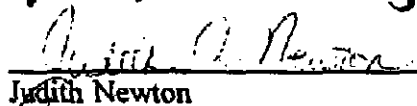
John Reilly
Judith Newton
Thomas Borden

Public
Public
Industry

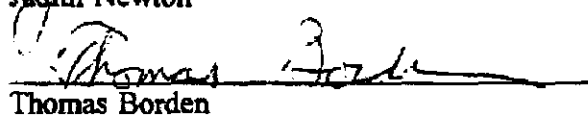
Concurring Arbitrators' Signatures



John Reilly



Judith Newton



Thomas Borden

Date of Decision: