

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimants

George & Evelyn Jones

95-00268

Name of Respondents

Smith Barney Shearson
Donald & Company
Anna York

REPRESENTATION

For Claimants George and Evelyn Jones ("claimant") appeared Richard D. Gaines, Esq. with law offices located in Ridgewood, New Jersey.

For Respondent Smith Barney Shearson, Inc. ("Smith Barney") appeared Christopher O'Malley, Esq., in-house counsel for Smith Barney.

For Respondent Donald & Company ("Donald") appeared Kenneth A. Elan, Esq., with law offices in New York.

For Respondent Anna York ("York") appeared Francis X. Stone, Esq., with law offices in Boston, Massachusetts.

CASE INFORMATION

Claimants' Statement of Claim was filed on January 17, 1995.
Claimants' Submission Agreement was signed on December 20, 1994.

Smith Barney's Statement of Answer was filed on March 14, 1995.
Smith Barney's Submission Agreement was signed on March 13, 1995.

York's Statement of Answer was filed on March 15, 1995.
York's Submission Agreement was signed on July 24, 1995.

Donald's Statement of Answer was filed on March 31, 1998.

Donald's Submission Agreement was signed on April 3, 1995

HEARING INFORMATION

Pre-Hearing Conferences:	May 9, 1996	-	One Session
	August 22, 1996	-	One Session
	October 8, 1997	-	One Session (Full Panel)
	December 5, 1997	-	One Session (Full Panel)
Hearing Dates/Sessions:	May 20, 1997	-	Two Sessions
	May 21, 1997	-	Two Sessions
	September 30, 1997	-	One Session
	October 1, 1997	-	One Session
	February 5, 1998	-	Two Sessions
	February 6, 1998	-	One Session
	May 11, 1998	-	Two Sessions

The hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimants alleged that they maintained an account with Smith Barney from August, 1991 to July, 1992 and that York was their account executive. Claimants further alleged that, in July, 1992, York went to Donald, and their account was transferred to Donald. Claimants alleged that, beginning on November 8, 1991, York made several unauthorized purchases and sales in their account. Claimants asserted that, when Mr. Jones realized what was occurring, York dissuaded him from taking any action by assuring him that he would recoup his losses and earn a greater profit than if he continued to own the securities she sold. Claimants contended that, in order to recoup the losses, Mr. Jones authorized the purchase of ICOS on April 7, 1992. Claimants further contended that the agreed upon strategy with respect to ICOS was after ICOS appreciated in value it would be sold and Healthdyne would be purchase with the proceeds. Claimants alleged that, contrary to the agreed upon strategy, York purchased Healthdyne on margin.

Claimants alleged that, after their account was transferred to Donald, Mr. Jones agreed to purchase 5000 Network warrants and that York was specifically instructed to sell the warrants once the price reached \$5.00. Claimants contended that York failed to sell the warrants when the price reached \$5.00. Claimants further contended that York assured him that the expiration date of the warrants would be extended and that he should hold them. Claimants alleged that the expiration was not extended and they lost their total investment when the warrants expired.

Smith Barney denied each of the allegations of wrongdoing in the Statement of Claim and further denied liability to claimants of any kind. Smith Barney maintained that, until the filing of their Statement of Claim, claimants never made any complaints with regard to the alleged unauthorized purchases. Smith Barney further maintained that claimants ratified any alleged improper transactions by their failure to make their objections in a timely manner.

York maintained that Mr. Jones represented himself as an "accredited investor". York further maintained that claimants repeatedly assented each time their account was moved to another brokerage firm to keep her as their broker. York asserted that Mr. Jones represented himself to be a substantial investor, who would speculate, an astute and active business man, and a man with experience in the market place. York denied any unauthorized trading in claimants' account and maintained that Mr. Jones authorized all of the transactions. York also asserted counterclaims against claimants for deceit/misrepresentation and libel.

Donald maintained that claimants never complained, orally or in writing, to Donald about the handling of their account by York and that it reasonably believed that the account was being handled in a satisfactory manner since claimants never objected to any transactions. Donald further maintained that claimants did not take any reasonable steps to mitigate their damages and that claimants' losses were attributed solely to their own conduct.

RELIEF REQUESTED

Claimants requested damages of \$102,757.00 and attorney's fees.

Smith Barney requested that all claims be dismissed in their entirety.

Donald requested that the Statement of Claim be dismissed in all respects.

York requested that the panel:

1. Deny Claimants' claims in their entirety.
2. Affirm that she properly discharged her fiduciary duty and obeyed the rules of the NASD as well as other securities laws, rules, and regulations.
3. Award her \$100,000.00 for the loss suffered as a result of Mr. Jones' misrepresentation/deceit, the emotional trauma and business losses resulting therefrom, plus treble damages and all attorney fees, interest, and all costs.
4. Award her \$400,000.00 for Mr. Jones libeling her plus treble damages and all attorney's fee, all costs and interest.

OTHER ISSUES CONSIDERED & DECIDED

Arbitrator William O'Mara passed away prior to the February 5, 1998 hearing. Pursuant to Rule 10313 of the Code of Arbitration Procedure, the parties agree to continue the hearings with the remaining two arbitrators.

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 original remains on file with the NASD.

AWARD

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

1. Smith Barney is hereby liable for and shall pay to Claimants the sum of \$20,000.00.
2. Donald is hereby liable for and shall pay to Claimants the sum of \$15,000.00.
3. All claims against York are dismissed in their entirety.
4. York's counterclaims are dismissed in their entirety.
5. Each party shall bear their respective costs, including attorney's fees.
6. All other claims are denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code of Arbitration Procedure, Smith Barney has paid to NASD Regulation, Inc. the \$350.00 member surcharge previously invoiced.

Pursuant to Rule 10333 of the Code of Arbitration Procedure, Donald has paid to NASD Regulation, Inc. the \$350.00 member surcharge previously invoiced.

FORUM FEES

Pursuant to Rule 10332(c) of the NASD Regulation Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$200.00 non-refundable filing fee paid by Claimants and the \$500.00 non-refundable filing fee paid by York and have assessed the following forum fees:

2 pre-hearing conferences (one arbitrator) x \$300.00	= \$ 600.00
2 pre-hearing conferences (full panel) x \$750.00	= \$ 1,500.00
11 hearing sessions x \$750.00	= \$ 8,250.00
Total forum fees	= \$10,350.00

1. Claimants are liable for the sum of \$5,175.00, representing one-half of the total amount of forum fees assessed. Claimants previously deposited \$750.00 with NASD Regulation, Inc., and, therefore, Claimants shall pay the balance of \$4,425.00.
2. Smith Barney is liable for and shall pay to NASD Regulation, Inc. the sum of \$1,725.00, representing one-sixth of the total amount of forum fees assessed.

3. Donald is liable for and shall pay to NASD Regulation, Inc. the sum of \$1,725.00, representing one-sixth of the total amount of forum fees assessed.
4. York is liable for the sum of \$1,725.00, representing one-sixth of the total amount of forum fees assessed. York previously deposited \$750.00 with NASD Regulation, Inc., and, therefore, York shall pay the balance of \$975.00.

Fees are payable to NASD Regulation, Inc.

ARBITRATION PANEL

David Fogel, Esq. - Public Chairperson
Jo Davis Hallingby, Esq. - Public Arbitrator

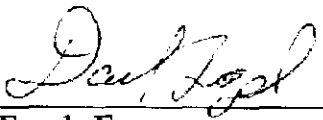
CONCURRING ARBITRATOR'S SIGNATURE



David Fogel, Esq.
Chairperson-Public Arbitrator

Date of decision: August 11, 1998

I, **David Fogel, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

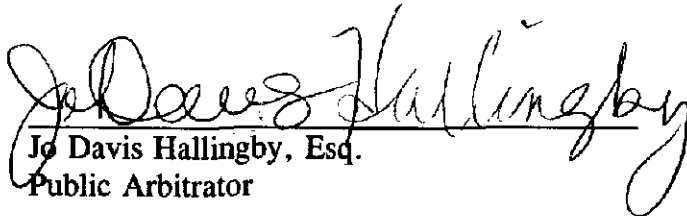


David Fogel, Esq.

ARBITRATION PANEL

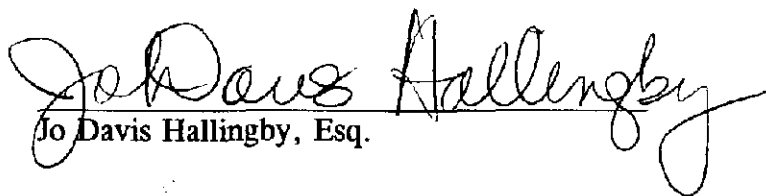
David Fogel, Esq. - Public Chairperson
Jo Davis Hallingby, Esq. - Public Arbitrator

CONCURRING ARBITRATOR'S SIGNATURE


Jo Davis Hallingby, Esq.
Public Arbitrator

Date of decision: August 11, 1993

I, Jo Davis Hallingby, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Jo Davis Hallingby, Esq.