

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Melvin Schwartz

vs.

Award No.
95-00395

Name of Respondents

Smith Barney Shearson, Inc.
Gary Spector

REPRESENTATION

Claimant, Melvin Schwartz ("Claimant") appeared pro se.

For Respondents, Smith Barney Shearson and Gary Spector, ("Respondents") Nicole L. Felton, Esq. New York City.

CASE INFORMATION

Statement of Claim was filed on September 27, 1994.

Claimant's Submission Agreement was signed on September 21, 1994.

Statement of Answer was filed by Respondents on June 26, 1995.

Respondent, Smith Barney Shearson, Inc.'s Submission Agreement was signed on June 26, 1995.

Respondent, Gary Spector's Submission Agreement was signed on July 11, 1995.

HEARING INFORMATION

Hearing Date/Session: November 16, 1995 - 2 Sessions

Hearing Location: NASD, Inc., Broad Financial Center at 33 Whitehall Street, New York, New York.

CASE SUMMARY

Claimant alleges that on October 23, 1992, he purchased shares of a stock called Hyperion 2002. Claimant alleges that, at the time of purchase, his broker Respondent Gary Spector represented that the stock was a safe and conservative investment to be redeemed at par \$10.00 per share in the year 2002. Claimant asserts that shortly after he made the purchase, the price of the stock declined. Claimant also asserts that when he questioned his broker about the decline in the price of the stock, the latter assured him the stock would be redeemed at par. Claimant further asserts that it has become evident that this will

not happen.

Respondents deny the allegations in the Statement of Claim and further deny liability of any kind to the Claimant. Respondents maintain that Claimant brings an arbitration claim when the investment he makes does not prove profitable.

Respondents allege that 2,500 shares of Hyperion 2002 were purchased in October, 1992 at which time, it was believed to be an appropriate investment for the Claimant. Respondents also allege that Mr. Spector informed Claimant that various financial scenarios were analyzed by Hyperion and that Hyperion believed the "worst case scenario" would entail a return of principal.

Respondents maintain that Claimant was provided with all information regarding this investment and that Claimant concurred with the recommendation. Respondents also maintain that the recommendation was appropriate at the time it was made. Further, Respondents maintain that, at all times, they acted in a professional and ethical manner and in accordance with securities exchange and government regulations.

RELIEF REQUESTED

Claimant request damages in the amount of \$9,000.00 together with interest and cost.

Respondents request that the claim be dismissed in its entirety and that they be awarded costs including attorneys' fees.

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. The claims of Claimant are denied in their entirety.
2. All claims for costs and attorneys' fees are denied.

FORUM FEES

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

Non-refundable Filing Fee	\$075.00
Hearing Session Fee	\$400.00 (\$200.00 x 2 sessions)
Total Fees	<hr/> \$475.00

Claimant paid Total Fees of: \$300.00

Claimant owes balance of \$175.00


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

AFFIRMATION

I, Robert Pincus, do hereby affirm pursuant to Article 7505 of the Civil Procedure Law and Rules, that this is my decision in the above captioned matter.



Sole Public Arbitrator



Robert Pincus, Esq.

NASD's Date of Decision: January 29 , 1996