

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Dorothy L. Frisbie

NASD Arbitration

No. 95-00399

Name of Respondent(s)

Smith Barney Shearson, Inc.

Lloyd E. Millegan

Eldon J. Wicklund

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REPRESENTATION

For Claimant: Larry H. Schons, Esq., Eugene, Oregon

For Respondents: Sean Coughlin, Esq., Smith Barney Inc., New York,  
New York

CASE INFORMATION

Statement of Claim filed: January 16, 1995

Claimant's Submission Agreement signed: January 16, 1995

Joint Statement of Answer filed by Respondents: March 22, 1995

Respondents' Submission Agreements signed as follows:

Smith Barney Shearson, Inc. (also known as Smith Barney Inc.):  
March 21, 1995

Lloyd E. Millegan: October 6, 1995

Eldon J. Wicklund: October 13, 1995

### HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s): None

Hearing Date(s)/Session(s): July 17, 1996 (two sessions)

Hearing Location: Portland, Oregon

### CASE SUMMARY

Claimant alleged unsuitability with respect to her investment in Service America Corporation Debentures. Claimant further alleged that she suffered damages because of the misleading or omitted information given by Respondent Lloyd E. Millegan regarding material facts regarding the risks of the subject debentures and the failure by the other Respondents to properly supervise Respondent Millegan, including allowing him to take orders from a person not owning the account.

Respondents denied Claimant's allegations of wrongdoing and alleged that they are not liable to Claimant for any losses sustained in her account. Respondents further alleged that the losses in Mrs. Frisbie's account were the result of Mr. and Mrs. Frisbie's own deliberate and informed course of action coupled with adverse market conditions, not any misconduct or mismanagement by Millegan, Wicklund or Smith Barney. Respondents further alleged that in dealing with Mrs. Frisbie's account, Respondents did not violate any rules of the National Association of Securities Dealers, Inc. (NASD), New York Stock Exchange, Inc. or any other regulatory entity designed to enforce procedure; nor did it violate any federal or state securities laws in its handling of Mr. and Mrs. Frisbie's accounts. Respondents also asserted affirmative defenses.

### RELIEF REQUESTED

Claimant requested damages in the amount of \$22,208.30; plus interest at the highest legal rate from February 20, 1992, until this sum is paid; plus punitive damages in the amount of \$50,000.00; plus attorney fees and costs.

Respondents requested that Claimant's claims be dismissed with prejudice and that Respondents be awarded the costs and disbursements incurred in this action.

### OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 by Claimant against Respondent Eldon J. Wicklund are dismissed.
2. Respondents Smith Barney Shearson, Inc. and Lloyd E. Millegan are jointly and severally liable for and shall pay to Claimant the sum of \$5,000.00.
3. Claimant's claims for interest and punitive damages are denied.
4. The parties shall each bear their respective costs including attorney's fees.

### FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$500.00 hearing session deposit previously deposited by the Claimant. Forum fees are to be split between Claimant and Respondents Smith Barney Shearson, Inc. and Lloyd E. Millegan and are calculated as follows:

Two hearing sessions @ \$500.00/session	=	\$1,000.00
Total fees assessed	=	\$1,000.00
Claimant's share (50%)	=	\$ 500.00
Credit for hearing deposit	=	\$ 500.00
Balance due	=	\$ 0.00

Smith Barney Shearson, Inc. and  
Lloyd E. Millegan's share, jointly  
and severally (50%) = \$ 500.00  
Balance due = \$ 500.00

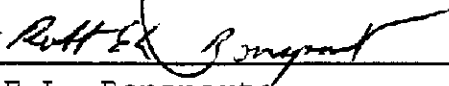
Fees are payable to the National Association of Securities  
Dealers, Inc.

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Roger Tilbury, Esq.	Public Arbitrator
Robert E.L. Bonaparte	Public Arbitrator
Lee Smith	Industry Arbitrator

Concurring Arbitrators' Signatures

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Roger Tilbury, Esq.

  
\_\_\_\_\_  
Robert E.L. Bonaparte

\_\_\_\_\_  
Lee Smith

Date of Decision: \_\_\_\_\_

Date Served: 08/21/96