

AWARD

NASD REGULATION, INC.

---

In the Matter of the Arbitration Between

Name of Claimant

Michael M. Beltrami

vs.

Case No.

95-00565

Name of Respondents

Smith Barney Shearson, Inc.

Joel B. Raskin

---

**REPRESENTATION**

For Claimant, Michael M. Beltrami ("Claimant"), appeared John Keenan, Esq. from EMG Advisory, Inc., located in Fairfield, Connecticut.

For Respondents, Smith Barney Shearson, Inc. ("Smith Barney") and Joel Raskin ("Raskin") (collectively "Respondents"), appeared Susan Harkins, Esq., in-house counsel for Smith Barney Shearson, located in New York, New York.

**CASE INFORMATION**

Statement of Claim was filed on February 6, 1995.

*Claimant's Submission Agreement signed on June 19, 1995.*

A Joint Statement of Answer was filed by Respondents on February 27, 1996.  
Respondents did not execute Submission Agreements.

**HEARING INFORMATION**

Hearing Dates/Sessions:      August 8, 1996      - 2 sessions  
   August 9, 1996      - 1 session  
   September 19, 1996 - 2 sessions  
   September 25, 1996 - 2 sessions

Hearing Location: NASD Regulation, Inc., located at 33 Whitehall Street, New York, New York.

**CASE SUMMARY**

Claimant Beltrami alleged that Raskin was his stockbroker from April 1984 to January 1995. Claimant contended that Raskin made unauthorized trades and recommended unsuitable securities during the ten-year period of their broker-client relationship and especially during the two years when he was unemployed and undergoing psychiatric treatment for depression. Claimant also contended that Raskin's misconduct caused his account to sustain a capital loss in excess of \$205,000.00 over the last six years. Claimant further contended that Raskin churned his account in order to generate over \$280,000.00 illegal commission.

Respondents maintained that when Claimant opened the options account in 1984, he was given all the relevant and material information concerning the nature of options trading, risk factors and information of his account. Respondents maintained that Claimant received monthly statements concerning the activities of his account. Respondent further maintained that under the terms of the Customer Agreement, objections must be made within ten days after notice or it would be treated as confirmations. Therefore, Respondent maintained, Claimant confirmed and approved all transactions made by Raskin since Claimant did not register any complaints.

Respondents also maintained that they did not know that Claimant was under medical and psychiatric care and that Claimant did not tell them he was under severe depression.

#### **RELIEF REQUESTED**

Claimant requested a compensatory award of \$485,000.00 against Respondents. Claimant also requested punitive damages against both Respondents.

Respondents requested the case be dismissed in its entirety. Respondents also requested that Claimant reimburse them for their attorneys' fees and cost incurred.

#### **OTHER ISSUES CONSIDERED & DECIDED**

*The parties will receive a copy of the signed Order executed in counterpart copies. The original Order will remain on file with the NASD Regulation, Inc.*

At the close of Claimant's case, Respondents moved to dismiss the claim and for directed verdict. Respondents argued that Claimant had failed to prove his claim. Claimant opposed the Motion and argued that he had established a case of churning and unauthorized trades.

After hearing oral arguments, this Panel reserved decision until November 22, 1996 and set the next hearing for that date. This Panel also heard one of Respondents' witnesses who had travelled to New York from Boston, Massachusetts.

Prior to Respondents raising this Motion, counsel for Claimant stated that he had not rested and wanted to call a compliance officer. Counsel for Claimant did not, however, identify to Respondents counsel who he wanted to testify so that Respondents could produce that person. Counsel for Claimant refused to identify the person and this panel ruled that based upon the foregoing, Claimant rested.

After reviewing, the evidence presented this Panel grants Respondents' Motion to Dismiss and assesses all fees against Claimant as Claimant failed to prove his claim.

#### **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. All claims asserted by Claimant against Respondents are dismissed.
2. Respondents' request for attorney's fees and costs are denied.

**FORUM FEES**

Pursuant to Section 10332 (formerly Section 43(c)) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed against Claimant.

Non-refundable Filing Fee: \$200.00  
Hearing Session Fees: \$5,250.00 (7 sessions @ \$750.00 per session)  
Total Fees: \$5,450.00

1. Claimant previously paid \$200.00 and owes a balance of \$5,250.00

Fees are payable to the NASD, Regulation, Inc.

**ARBITRATION PANEL**

Romeo J. Barros, Esq.	-	Public Chairperson
Anne Cugliani	-	Public Panelist
William E. O'Mara	-	Industry Panelist

Concurring Arbitrator's Signature

Romeo J. Barros  
Romeo J. Barros, Esq.

Date of Decision: November 21, 1996

**AFFIRMATION**

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

Romeo J. Barros  
Romeo J. Barros, Esq.

**FORUM FEES**

Pursuant to Section 10332 (formerly Section 43(c)) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed against Claimant.

Non-refundable Filing Fee: \$200.00  
Hearing Session Fees: \$5,250.00 (7 sessions @ \$750.00 per session)  
Total Fees: \$5,450.00

1. Claimant previously paid \$200.00 and owes a balance of \$5,250.00

Fees are payable to the NASD, Regulation, Inc.

**ARBITRATION PANEL**

Romeo J. Barros, Esq.	-	Public Chairperson
Anne Cugliani	-	Public Panelist
William E. O'Mara	-	Industry Panelist

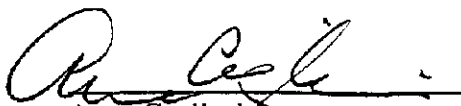
Concurring Arbitrator's Signature

  
Anne Cugliani

Date of Decision: November 21, 1996

**AFFIRMATION**

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

  
Anne Cugliani

**FORUM FEES**

Pursuant to Section 10332 (formerly Section 43(c)) of the *Code of Arbitration Procedure*, the following Forum Fees are assessed against Claimant.

Non-refundable Filing Fee: \$200.00  
Hearing Session Fees: \$5,250.00 (7 sessions @ \$750.00 per session)  
Total Fees: \$5,450.00

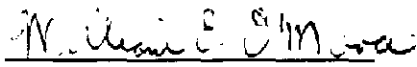
1. Claimant previously paid \$200.00 and owes a balance of \$5,250.00.

Fees are payable to the NASD, Regulation, Inc.

**ARBITRATION PANEL**

Romeo J. Barros, Esq.	-	Public Chairperson
Anne Cugliani	-	Public Panelist
William E. O'Mara	-	Industry Panelist


Concurring Arbitrator's Signature

  
William E. O'Mara

Date of Decision: November 21, 1996

**AFFIRMATION**

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

  
William E. O'Mara