

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Ernest C. Gray, Jr.

95-00687

Name of Respondents

Smith Barney Shearson, Inc.
Dennis W. Hubbard
Christal Torrens Hubbard

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 7, 1995, Claimant Ernest C. Gray, Jr. ("Claimant"), through his representative and counsel, Barry H. Alper, of Securities, Arbitration Consultants, Inc., located in Boca Raton, FL, alleged that Respondent Smith Barney Shearson, Inc. ("SBS"), through Respondents Christal Torrens Hubbard ("Hubbard"), and Dennis W. Hubbard, recommended that he purchase Mesa Limited Partnership Pref Class A, Depository Units ("LP") which he followed to his detriment. Claimant further alleged that the LP was illiquid and was falsely represented as a safe and conservative investment for a retirement account. Claimant contended that the Respondents told him that the LP would provide money upon retirement and would substantially increase his original investment which was incorrect information. Claimant further contended that the LP was unsuitable for him due to his investor profile and historic purchases of securities with both safety and income. Claimant alleged that as a result of the above, he has suffered a loss for which the Respondents should be held liable.

Respondents Smith Barney Shearson, Inc., Dennis W. Hubbard, Christal Torrens Hubbard, through their representative and in-house counsel, Ann Parry, Esq., maintained that the LP was suitable for Claimant, was not speculative or risky and was liquid as was publicly traded. Respondents further maintained that in May of 1989 the Claimant opened an individual retirement account at SBS and transferred in approximately \$22,000.00 in assets. Respondents contended that about one month after the transfer the Respondents recommended the purchase of the LP. Respondents further contended that Claimant was familiar with the LP's general partner, T. Boone Piken, and that he believed this was a good investment. Respondents maintained that shortly after his purchase the value of the fund began declining and that this decline was reflected in the accounts statements sent monthly to the Claimant. Respondents further maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Ernest C. Gray, Jr., requested \$10,00.00 in actual damages plus interest, costs and attorney's fees.

Respondents Smith Barney Shearson, Inc., Dennis W. Hubbard, and Christal Torrens Hubbard, requested that the claims of the Claimant be dismissed.

AWARD

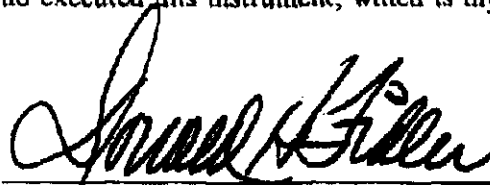
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Donald H. Fidler, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 27, 1995, and by the Respondents Smith Barney Shearson, Inc., on June 12, 1995, Dennis W. Hubbard and Christal Torrens Hubbard on June 9, 1995.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Ernest C. Gray, Jr., against Respondents Smith Barney Shearson, Inc., Dennis W. Hubbard, and Christal Torrens Hubbard, are denied in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **DONALD H. FIDLER, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in cursive script, appearing to read "Donald H. Fidler", is written over a horizontal line.

Donald H. Fidler, Esq.

DATE OF DECISION: March 26, 1996