

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Evelyn Katz

95-01061

Name of Respondent(s)

Smith Barney Shearson, Inc.

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**REPRESENTATION**

For Claimant, Evelyn Katz ("Katz"): pro se.

For Respondents, Smith Barney Shearson, Inc., ("Smith Barney") and Rheta Raven ("Raven"):  
Scott Almas (non-attorney) of Smith Barney, N.Y., N.Y.

**CASE INFORMATION**

Statement of Claim filed: March 1, 1995.

Claimant's Submission Agreement signed on: February 15, 1995.

Joint Statement of Answer filed by Respondents on: June 1, 1995.

Respondent, Smith Barney's Submission Agreement signed on: May 30, 1995.

Respondent, Raven, is deceased; therefore, no Submission Agreement was signed on her behalf.

**HEARING INFORMATION**

On February 20, 1996, a hearing lasting 1 session was conducted in Ft. Lauderdale, FL.

### **CASE SUMMARY**

Claimant alleged that Respondent, Raven, had a blatant disregard for the value of a clients account. Claimant also alleged breach of fiduciary duty, misrepresentation, and unsuitability. Furthermore, Claimant alleged that Respondent, Smith Barney, encouraged aggressive investments and fraudulently concealed the risk of recommended investments. Liability was alleged upon Smith Barney based on their responsibility of the actions of their employee Raven.

Respondents alleged that Claimant was fully aware of all the risks associated with the investment at issue when she purchased it; that the investment met her objectives; and that any losses were caused by Claimant's own negligence. Additionally, Respondents affirmative defenses were as follows: failure to state a claim, comparative negligence, and failure to mitigate damages.

### **RELIEF REQUESTED**

Claimant requested \$6,719.47 for the loss of her investment and \$3,280.53 for loss of opportunity and punitive damages.

Respondents requested dismissal of all claims in their entirety

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

In light of the fact that she was deceased, Respondent, Raven, was dismissed from this matter. deceased.

### **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. Respondents are found not liable; therefore, the claims against them are hereby dismissed.
2. Claimant's request for loss of opportunity and punitive damages is denied.
3. Other than the forum fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

### **FORUM FEES**

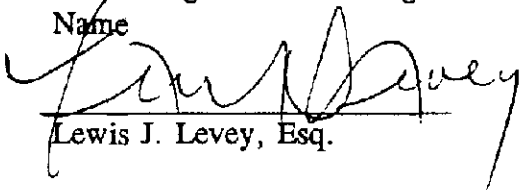
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrator has assessed Forum Fees in the amount of \$200.00 (1 session x \$200.00 per session).

1. Claimant is hereby assessed \$200.00 for which the NASD shall retain the \$200.00 previously deposited by Claimant in full satisfaction thereof.
2. The NASD shall retain the nonrefundable filing fee of \$75.00 previously paid by Claimant.

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

Concurring Arbitrators' Signatures

Name

  
Lewis J. Levey, Esq.

Public/Industry

Public/Chairman

Date of Decision:

4/5/96