

## AWARD

### **NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.**

In the Matter of the Arbitration Between

#### Names of Claimants

Abbas & Deborah Sadriwalla

95-01382

#### Name of Respondents

Smith Barney Shearson, Inc.  
Ken Arnold

## REPRESENTATION

For Claimants Abbas and Deborah Sadriwalla ("The Sadriwallas"): David A. Coven, Esq. of Fort Lauderdale, Florida.

For Respondents, Smith Barney Shearson, Inc. ("Smith Barney") and Ken Arnold ("Arnold"): Ann Parry, Esq., of Smith Barney, New York, New York.

## CASE INFORMATION

Statement of Claim filed: March 15, 1995.

Claimant's Submission Agreement signed on: March 8, 1995.

Joint Statement of Answer filed by Respondents on: June 20, 1995.

Respondent Smith Barney's Submission Agreement/Corporate Acknowledgment signed on: June 19, 1995 by Ann Parry, Esq. on behalf of the firm.

Respondent Arnold's Submission Agreement signed on: July 14, 1995

## HEARING INFORMATION

On November 25, 1996 a hearing lasting two sessions was conducted in Fort Lauderdale, Florida.

### **CASE SUMMARY**

Claimants alleged that Respondents mishandled their account by investing their funds in extremely risky ventures contrary to Claimants' specific instructions. Claimants maintain that they entrusted approximately \$38,000.00 to Respondents to invest in safe, conservative equities. Claimants stated that their claim against Respondents is based upon the legal theories of negligence and breach of fiduciary duty.

Respondents denied all allegations of wrongdoing contained in the Statement of Claim and alleged that Claimants were extremely successful business people with a total net worth of over 2.5 million dollars, with prior investment experience; that the account in question was specifically opened up by Claimants because of their desire to invest in smaller over-the-counter stocks in an attempt to realize "quick money"; that the New Account documents for this account indicate that the Claimants' investment objectives were primarily growth, with an aggressive risk tolerance which allowed for speculation; that based upon the Claimant's express investment objective of investing in companies with a large potential for growth, Respondent, Arnold, recommended two companies which he believed met their criteria, One Price Clothing Store, Inc., and Ames Department Stores, Inc.; that during this discussion Arnold stressed the volatility of those stocks; that Arnold also provided Claimants with extensive documentation on both of the companies; and, that after reviewing the materials, Claimants purchased stock in both companies. Respondents further stated that despite the fact that Claimants authorized both purchases, and were fully informed of the risks involved in the purchases, Claimants seek to disavow their investments merely because they are dissatisfied with the performance of their investments; that based upon Claimants' financial status, their stated investment objectives, and their prior investment experience, these recommendations were completely suitable for the Claimants; and, that further evidence of the suitability of these investments can be seen in the Claimants' trading in their Merrill Lynch account which was opened while the Smith Barney account was in existence, which, Respondents contended, mirrored the same type of purchases in over the counter stocks, and reflected more aggressive short term buying and selling.

### **RELIEF REQUESTED**

Claimants requested an award of damages in the amount of \$15,000.00.

Respondents requested dismissal of the claim.

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

The parties have agreed that the Award in this matter may be executed in 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 and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Smith Barney and Arnold, are found not liable and, therefore, all claims against them are hereby dismissed.

### OTHER COSTS

The parties shall each bear their own costs and expenses incurred in connection with this proceeding.

### FORUM FEES

Pursuant to Section 10332 of the Code of Arbitration Procedure, Forum Fees in the amount of \$800.00 have been assessed (two hearing sessions X \$400.00).

1. Claimants are hereby assessed forum fees in the amount of \$400.00 for which NASD Regulation, Inc. shall retain the \$400.00 previously deposited by Claimants in satisfaction thereof.
2. Respondents, Smith Barney and Arnold, are hereby jointly and severally assessed Forum Fees in the amount of \$400.00 payable to NASD Regulation, Inc.
3. NASD Regulation, Inc. shall retain the \$200.00 member surcharge paid by Respondent, Smith Barney.
4. NASD, Regulation, Inc. shall retain the non-refundable filing fee of \$100.00 paid by the Claimants.

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

### ARBITRATION PANEL

#### Concurring Arbitrators' Signatures

/s/

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Randy R. Freedman, Esq.

Public/Chairperson

/s/

\_\_\_\_\_  
James M. Dunne

Public/Panelist

/s/

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Edward S. Burstein

Industry/Panelist

Date of Decision: January 15, 1997