

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Ronald Gerstl

95-01771

Name of Respondent(s)

Smith Barney Inc.
Robert L. Waxman

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 11, 1995 Claimant Ronald Gerstl, who appeared Pro Se, alleged that Respondent Robert L. Waxman of the Respondent firm, Smith Barney Inc. recommended he purchase 1,000 shares of Alliance World Fund II by representing to him that it was a safe vehicle and that the principal should not vary much. The Claimant contended that the value of the investment has declined, and although the income has not varied, he was informed that it could, and therefore, he should be compensated for the wrongdoing of the Respondents.

Respondents Smith Barney Inc. and Robert L. Waxman, through their representative and in-house counsel, Ann Parry, Esq., maintained that the investment in question has remained consistent over the life of the fund, and that through no fault of the Respondents, the principal has declined due to normal market movement. The Respondents contended that the claim is without merit and should be dismissed.

In a reply to the Statement of Answer, Claimant Ronald Gerstl asserted that the Alliance II Fund was misrepresented to him, since he was only told the principal could vary and was not told that the interest income could also vary. The Claimant again contended that he is entitled to recover damages for the wrongdoing committed by the Respondents.

RELIEF REQUESTED

Claimant Ronald Gerstl requested \$5,000.00 in actual damages.

Respondents Smith Barney Inc. and Robert L. Waxman, 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, Gary M. Landau, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 5, 1995 and by the Respondent Smith Barney Inc. and Robert L. Waxman on July 27, 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 Ronald Gerstl against Respondents Smith Barney Inc. and Robert L. Waxman are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

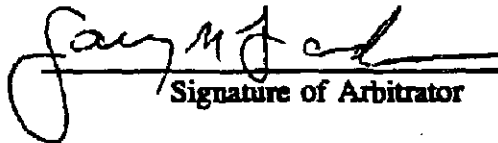
STATE OF Florida

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SS:

COUNTY OF Broward

I, Gary M. Landau, 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.



Signature of Arbitrator

DATE OF DECISION: January 4, 1996

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REPORT OF ARBITRATOR

I am dismissing this claim. Claimant states that while he understood at the time he purchased the investment at issue that the principal could vary (which in fact it did), he was told by the broker that the income produced by this investment would be fixed. The fact that the Claimant's case is predicated on the assertion that the Respondent [according to the Claimant, wrongfully] advised him that the income could not vary [apparently it could vary] leads the arbitrator to find that the Claimant suffered no damages, since it appears from the documentation submitted that during the entire time the Claimant owned this investment, the income in fact never varied.