

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Atlantic Business Group, Inc.

95-02073

Name of Respondents

Smith Barney Shearson, Inc.  
William H. Tierney

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on April 28, 1995, Claimant Atlantic Business Group, Inc. ("Claimant"), through its representative and President, Michael J. Feeney, alleged that Respondents Smith Barney Shearson, Inc. ("SBSI") and William H. Tierney ("Tierney"), breached their fiduciary duty to Claimant by misrepresenting the quality and quantity of research and diligence performed prior to their recommending the purchase of 500 SLM International shares. Claimant further alleged that Respondents breached their fiduciary duty to Claimant by failing on January 12, 1995, to execute the specified limit order associated with the proposed investment. Claimant contended that Respondents subsequently executed unauthorized sales of securities in Claimant's account associated with the investment above. Claimant further contended that as a result of the above, it has suffered a loss for which the Respondents should be held liable.

Respondent Smith Barney Shearson, Inc. and William H. Tierney, through their representative and in-house counsel, Leslie K. Klenk, Esq., maintained that they performed adequate research and due diligence in recommendation of investment. Respondents further maintained that they fully and fairly disclosed to Claimant in detail all relevant risks associated with proposed investment. Respondents contended that Claimant specified by default a market order for 500 shares of SLM International, which was duly executed on January 12, 1995. Respondents further contended that they subsequently sale on January 24, 1995 at SLM International shares in Claimant's account was caused by Claimant's refusal to cover margin requirement, and authorized by the Signed Margin Agreement, which empowers Respondents to sell out a customer position for the protection of the firm. Respondents maintained that as a result of the above, they should not be liable.

**RELIEF REQUESTED**

Claimant Atlantic Business Group, Inc., requested \$947.50 in actual damages.

Respondent Smith Barney Shearson, Inc. and William H. Tierney, requested that the claims of the Claimant be dismissed in their entirety.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Peter J. Dale, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Atlantic Business Group, Inc., on April 26, 1995, and by the Respondent Smith Barney Shearson, Inc., on June 12, 1995, and by Respondent William Tierney, on May 16, 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. Respondents Smith Barney Shearson, Inc. and William Tierney, are jointly and severally liable and shall pay to the Claimant Atlantic Business Group, Inc., \$250.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Atlantic Business Group, Inc., shall be retained by the NASD, Inc.
4. All other relief requests are denied.

**AFFIRMATION**

I, PETER J. DALE, 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.

  
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Signature of Arbitrator

DATE OF DECISION: January 15, 1996