

**Award**  
**NASD Regulation, Inc.**

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In the Matter of the Arbitration Between:

Mary Ann and John Eger, John Eger Esq. P/S PL & TST DTD 11/20/86, Maryann Eger Shearson as IRA Custodian (Claimants) vs. Smith Barney Shearson, Inc., Roger M. Matloff, (Respondents)

Case Number: 95-02855

Hearing Site: New York, New York

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**REPRESENTATION OF PARTIES**

Claimants, Mary Ann and John Eger, John Eger Esq. P/S PL & TST DTD 11/20/86, Maryann Eger Shearson as IRA Custodian, hereinafter collectively referred to as "Claimants": J. Leo Federman, Investors Rights Association, Inc., Montecito, California.

Respondents, Smith Barney Shearson, Inc. ("Smith Barney") and Roger M. Matloff ("Matloff"), hereinafter collectively referred to as "Respondents": William A. Hohauser, Esq., Smith Barney Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: June 7, 1995.

Claimants signed the Uniform Submission Agreements: January 24, 1995.

Statement of Answer filed by Respondents on or about: September 11, 1995.

Respondent Smith Barney signed the Uniform Submission Agreement: September 11, 1995.

Respondent Matloff signed the Uniform Submission Agreement: October 1, 1995.

**CASE SUMMARY**

Claimants asserted the following causes of action: failure to follow instructions; breach of fiduciary duty; negligence; breach of contract; negligent supervision; violations of NASD and New York Stock Exchange Rules.

Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Respondents acted at all times in a professional and ethical manner and in accord with all government and exchange regulations; Claimants' claims are barred by the applicable statute of limitations; the claims fail for lack of prosecution.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$250,000.00
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified

Respondents requested that the Statement of Claim be dismissed in its entirety, and that they be awarded costs, including attorney's fees.

### **OTHER ISSUES CONSIDERED AND 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.

### **AWARD**

After considering the pleadings and oral arguments presented at the telephonic pre-hearing conferences, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents' Motion to Dismiss the case with prejudice is granted.
2. The parties shall bear their respective costs, including attorneys' fees.
3. All other requests are hereby denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:  
Initial claim filing fee = \$200.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the event giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$350.00

#### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the

arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$750	= \$1,500.00
Pre-hearing conferences: February 2, 1999	1 session
July 26, 1999	1 session
<hr/> Total Forum Fees	<hr/> = \$1,500.00

1. The Panel has assessed the total forum fees of \$1,500.00 against Claimants.

**Fee Summary**

1. Claimants be and hereby are solely liable for:

Initial Filing Fee	= \$ 200.00
Forum Fees	= \$1,500.00
<hr/> Total Fees	<hr/> = \$1,700.00
<u>Less payments</u>	<u>= \$ 950.00</u>
Balance Due NASD Regulation, Inc.	= \$ 750.00

2. Respondent Smith Barney be and hereby is solely liable for:

<u>Member Fees</u>	<u>= \$ 350.00</u>
Total Fees	= \$ 350.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Regulation, Inc.	= \$ 350.00

All balances are due and payable to NASD Regulation, Inc.

**Concurring Arbitrators' Signatures**

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.



Cynthia L. Boyce, Esq.  
Public Arbitrator, Presiding Chair

10/27/99  
Signature Date

William J. Crowe, Jr., Esq.  
Industry Arbitrator

Signature Date

Jean C. Fox  
Public Arbitrator

Signature Date

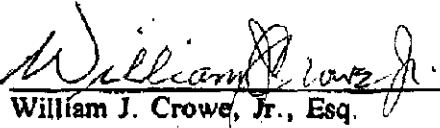
October 29, 1999  
Date of Service (For NASD office use only)

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Cynthia L. Boyce, Esq.  
Public Arbitrator, Presiding Chair

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Signature Date

  
\_\_\_\_\_  
William J. Crowe, Jr., Esq.  
Industry Arbitrator

10-28-99  
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Signature Date

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Jean C. Fox  
Public Arbitrator

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Signature Date

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NASD Regulation, Inc. Office of Dispute Resolution  
Arbitration No. 95-02855  
Award Page 6

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Signature Date

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William J. Crowe, Jr., Esq.  
Industry Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Jean C. Fox  
Public Arbitrator

October 28<sup>th</sup> 1999  
\_\_\_\_\_  
Signature Date

October 29, 1999  
\_\_\_\_\_  
Date of Service (For NASD office use only)