

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Anna Iavarone

95-03034

Name of Respondent

Smith Barney Shearson, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on June 15, 1995, Claimant Anna Iavarone ("Claimant"), who appeared Pro Se, alleged that Respondent Smith Barney Shearson, Inc. ("SBSI"), misrepresented the risk involved in investing in its America First product by loosely using the terms "US government mortgages" and "US government-backed bonds" to persuade Claimant to make the investment. Claimant further alleged that Respondent advised that she purchase the unsuitable investments disregarding her stated goals of stable growth and liquidity. Claimant contended that the America First prospectus both warns of the potential unsuitability of the product for investors requiring liquidity, and expressly requires the execution of a confirmation of suitability by the investor. Claimant further contended that the confirmation and suitability were never done. Claimant alleged that as a result of the above, she has suffered a loss for which the Respondent should be held liable.

Respondent Smith Barney Shearson, Inc., maintained that America First Tax Exempt Mortgage Fund was a suitable investment for Claimant, based on her stated investment objective at maximizing income, and the explicitly stated product goals of safety and preservation of capital, and regular distributions of federally tax-exempt interest. Respondent further maintained Claimant's financial counselor informed her of all risks involved, including the fluctuation of capital, and also was made to understand in detail the mechanics of the investment. Respondent contended that Claimant's investment suffered no damages, explaining that what appears as an erosion at principal is partly a return of principal as is common in these types of investments. Respondent further contended that Claimant attempts to use the arbitration process not to recover legitimate losses but to increase the rate of return on the underlying investment. Respondent maintained that as a result of the above, it should not be held liable.

**RELIEF REQUESTED**

Claimant Anna Iavarone, requested \$4,233.25 in actual damages.

Respondent Smith Barney Shearson, Inc., requested that the claims of the Claimant be dismissed in its entirety.

**AWARD**

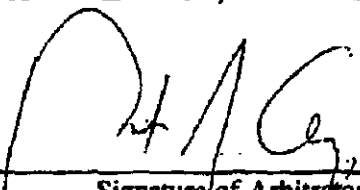
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Robert J. Ambrogi, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Anna Iavarone, on June 12, 1995, and by the Respondent Smith Barney Shearson, Inc., on September 12, 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 Anna Iavarone, against Respondent Smith Barney Shearson, Inc., are denied in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Anna Iavarone, shall be retained by the NASD, Inc.
4. All other relief requests are denied.

**AFFIRMATION**

I, ROBERT J. AMBROGI, 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 29, 1996