

AWARD

NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimants

Patricia Horigan as Custodian
Patricia Horigan

vs.

Award No.
95-03746

Name of Respondents

Smith Barney Shearson, Inc.
Mark Perron

REPRESENTATION

For Claimant, Patricia Horigan, initiated this proceeding individually and as custodian on behalf of Jacqueline, Stephanie, and Christopher Horigan (collectively "Claimants"), appeared Phillip Giordano, Esq. from the firm of Giordano & Champa, P.C. located in Boston, Massachusetts.

For Respondent Mark Perron ("Perron"), appeared Michael Morisi, Esq. from the firm of Morisi & Associates, P.C. located in Boston, Massachusetts.

CASE INFORMATION

Statement of Claim was filed August 2, 1995.

Claimant's Submission Agreement was signed on June 2, 1995.

Respondent Perron did not file a Statement of Answer or execute a Submission Agreement.

HEARING INFORMATION

Hearing Dates/Sessions:	August 5, 1996	-	2 sessions
	August 6, 1996	-	2 sessions
	August 26, 1996	-	2 sessions

All hearing sessions were held at the office of the NASD Regulation, Inc. located in Boston, Massachusetts.

CASE SUMMARY

Claimant alleged that, she was introduced to Perron through her tax advisor in or about 1987. Claimant also alleged that Perron was a Series 7 registered representative at E.F. Hutton, predecessor of Smith Barney Shearson, Inc. Claimant further alleged that Perron knew that she had no background in financial investment during their initial meetings and discussion.

Claimant asserted that Perron aggressively solicited her business after she received the proceeds from her

husband's life insurance policy in the fall of 1987. Claimant also asserted that Perron told her that using his investment expertise, he could help her secure a decent living for her future and the education of her very young children.

Claimant further asserted that given the fact that there was little prospect in securing a job because of her three very young children, Perron told her that she needed to invest conservatively, i.e., principal preservation and conservative capital appreciation. However, Claimant contended that Perron intentionally misrepresented the safety of her money by claiming that all the securities which she purchased were "guaranteed" and were "as safe as U.S. Treasury Bills." Claimant also contended that Perron never provided her with full disclosure of the investments and the attendant risks.

Claimant alleged that Perron violated federal and state securities laws by intentionally, recklessly, and fraudulently making false statements about her investments, misleading her into purchasing securities instruments which were inconsistent with her investment objectives, and omitting material information about the securities. Claimant also alleged that as the result of Perron's misconduct, he breached their contract and breached his fiduciary duty to her.

Respondent Perron did not file a Statement of Answer but appeared at the hearing to defend the allegations.

RELIEF REQUESTED

Claimant requested a compensatory award against Respondent Perron for the actual monetary loss sustained in her and her children accounts. Claimant also requested an additional compensatory award against Perron for damages sustained by her as a result of his violation of federal and state securities laws. Claimant further requested punitive damages and reimbursement of attorneys' fees and cost incurred in this proceeding.

Perron requested that the case be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

The arbitration panel made the following rulings concerning Respondent Perron who did not file a Statement of Answer nor a Submission Agreement:

As previously stated Respondent did not file an answer; however, he filed a Motion to Dismiss pursuant to Sections 15 and 12 of the *Code of Arbitration Procedure* ("Code"). Claimant also moved to preclude Respondent from submitting evidence for failure to comply with Section 32(c) of the *Code*. After hearing arguments on both Motions, this panel denied Respondent's Motion and granted Claimant's Motion to the extent that Respondent was allowed to cross-examine, rebut and argue but was not allowed to submit a case.

1. Pursuant to Section 1 of the *Code*, the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that Respondent was a member of the NASD at the time this controversy arose. Consequently, the panel found personal jurisdiction over Respondent pursuant to Section 12 of the *Code*.

3. In view of (2) above, the panel found the Respondent was required to file with the NASD a Statement of Answer and a properly executed Submission Agreement pursuant to Section 25(b) of the *Code*.

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 Regulation office of Dispute Resolution.

At the end of closing argument, Claimant moved to submit brief on damage calculation. Respondent objected. This panel informed the parties that its decision would be conveyed to the parties through the NASD. They denied Claimant's request.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims asserted by Claimant are denied.

FORUM FEES

Pursuant to Section 43(c) of the *Code*, the arbitrators have assessed the following forum fees:

Non-refundable Filing Fee	=	\$ 200.00
6 Sessions x \$750.00 per session	=	\$4,500.00
Total Fees	=	\$4,700.00

Claimant is hereby liable for the sum of \$2,350.00 representing one-half of the total forum fees assessed. Claimant previously deposited \$950.00 with the NASD Regulation and owes a balance of \$1,400.00.

Respondent is hereby liable for the sum of \$2,350.00 representing one-half of the total forum fees assessed.

Fees are payable to the NASD Regulation, Inc.

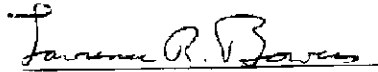
ARBITRATION PANEL

Lawrence R. Bowers, Esq.	-	Public Chairperson
Theodore R. Turner, Jr.	-	Industry Panelist
Daniel Pearl, PhD	-	Public Panelist

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Concurring Arbitrator's Signature


Lawrence R. Bowers, Esq.

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Concurring Arbitrator's Signature

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Theodore R. Turner, Jr.

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Concurring Arbitrator's Signature

A handwritten signature in cursive script, appearing to read "Daniel Pearl", written over a horizontal line.

Daniel Pearl, PhD

NASD Regulation Date of Decision: October 24, 1996