

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

In the matter of the Arbitration Between

Name of Claimant(s)

LMDE, Inc.

v.

NASD Arbitration  
No. 95-03907

Name of Respondent(s)

Smith Barney Shearson, Inc. and Prudential Securities, Inc.

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**REPRESENTATION**

For Claimant:

Bruce R. Safran, Esq.  
Law Offices of Bruce R. Safran  
Tarzana, California

For Respondent Smith Barney Shearson, Inc.:

James S. Goddard, Esq.  
Smith Barney Shearson, Inc.  
New York, New York

For Respondent Prudential Securities, Inc.:

Robin Nackman, Esq.  
Prudential Securities Inc.  
New York, New York

**CASE INFORMATION**

Statement of Claim filed:

August 11, 1995

Claimant's Submission Agreement signed:

May 18, 1995

Statement of Answer filed by Respondent Smith Barney Shearson, Inc.:

October 3, 1995

Statement of Answer filed by Respondent Prudential Securities, Inc.:

~~November~~ 15, 1995

Respondent Smith Barney Shearson, Inc.'s Submission Agreement signed:

October 3, 1995

Respondent Prudential Securities, Inc.'s Submission Agreement signed:

November 9, 1995

### **HEARING INFORMATION**

Pre-Hearing Conference Date / Session: September 19, 1996 (1 Session)

Hearing Date(s) / Session(s): October 1, 1996 (2 Sessions)  
October 2, 1996 (2 Sessions)

Hearing Location: Los Angeles, California

### **CASE SUMMARY**

Claimant alleged that Respondent violated NYSE and NASD rules, recklessly disregarded the Claimant's best interest, breached their fiduciary duties to the Claimant, breached their contract with Claimant, made misrepresentations to Claimant, and omitted to disclose necessary facts to Claimant.

Claimant further alleged that Respondents churned Claimant's account, made unsuitable recommendations, executed unauthorized trades in Claimant's accounts and unauthorized discretionary transactions. Claimant also alleged that Respondants failed to adequately investigate the background of their employee and were negligent in their hiring and supervising their employee.

Respondants denied the allegations of wrongdoing found in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$265,000.00, the return of all commissions, punitive damages according to proof, and recovery of attorney's fees, interest, costs and disbursements.

The Respondants requested that the Claimant's claims be dismissed in their entirety and that costs and expenses be awarded in their favor.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Prudential Securities, Inc. was dismissed by the Claimant prior to the commencement of hearing on the merits.

The parties have agreed that the Award in this matter may be executed in either 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 original remains on file with the NASD.

### **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 of the Claimant's claims are denied in their entirety.
2. Claimant's request for punitive damages is denied in its entirety.
3. The parties shall each bear their respective costs, including attorney's fees.

### **FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

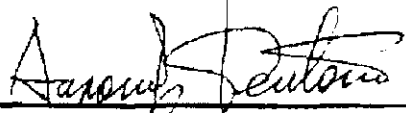
One Pre-hearing @ \$300.00/Session	=	\$300.00
<u>Four Hearing Sessions @ \$750.00/Session</u>	=	<u>\$3,000.00</u>
Total Fees Assessed	=	\$3,300.00
 Claimant's One-Half Share	=	\$1,650.00
<u>Credit for Hearing Session Deposit</u>	=	<u>\$750.00</u>
Claimant's Balance Due	=	\$900.00
 <u>Respondant Smith Barney Shearson, Inc.'s one-half share</u>	=	<u>\$1,650.00</u>
Respondant Smith Barney Shearson, Inc.'s Balance Due	=	\$1,650.00

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

Name .....	Public / Industry
Aaron Fenton	Public Arbitrator
David Anderson	Public Arbitrator
Michael Pocaterra	Industry Arbitrator

Concurring Arbitrators' Signatures

  
\_\_\_\_\_  
Aaron Fenton

\_\_\_\_\_  
David Anderson

\_\_\_\_\_  
Michael Pocaterra

Date of Decision: \_\_\_\_\_

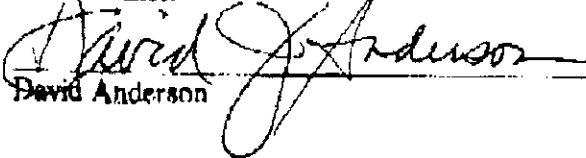
Date of Service: \_\_\_\_\_

ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Aaron Fenton	Public Arbitrator
David Anderson	Public Arbitrator
Michael Pocaterra	Industry Arbitrator

Concurring Arbitrators' Signatures

Aaron Fenton



David Anderson

Michael Pocaterra

Date of Decision: \_\_\_\_\_

Date of Service: \_\_\_\_\_

ARBITRATORS

<u>Name</u> .....	<u>Public / Industry</u>
Aaron Fenton	Public Arbitrator
David Anderson	Public Arbitrator
Michael Pocaterra	Industry Arbitrator

Concurring Arbitrators' Signatures

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Aaron Fenton

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David Anderson  

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Michael PocaterraDate of Decision: 11/14/96Date of Service: 11/14/96