

NASD REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Steven Pribis, Jr.

95-04021

Name of Respondents

Smith Barney Shearson, Inc. (n/k/a Smith Barney, Inc.)  
Gilbert F. Hartman

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**REPRESENTATION**

Claimant Steven Pribis, Jr. ("Claimant") appeared at the hearing pro se.

Respondents Smith Barney Shearson, Inc. ("Smith Barney") and Gilbert F. Hartman ("Hartman") were represented at the hearing by Etta Gumbs, Esq. and Ann Parry, Esq. of Smith Barney, Inc.

**CASE INFORMATION**

The Statement of Claim was filed on September 4, 1995  
Claimant's Submission Agreement was signed on August 17, 1995

Joint Statement of Answer filed by Respondents Smith Barney and Hartman (collectively referred to as "Respondents") on: October 17, 1995

Supplemental Answer filed by Respondents on: October 31, 1995

Smith Barney's Submission Agreement signed on: October 16, 1995

Hartman's Submission Agreement signed on: September 15, 1995

**HEARING INFORMATION**

Pre-Hearing Conference: May 14, 1996 - one session

Hearing Date/Sessions: June 20, 1996 - two sessions

Hearing Location: 1717 Arch Street, 37th Floor  
Philadelphia, PA

### CASE SUMMARY

The Claimant alleged, among other things, that the Respondents, through its then representative Hartman, recommended investment by the Claimant in an unsuitable stock, Qualcomm. Claimant alleged that Hartman recommended trading in Qualcomm in the form of short sales, put and call options. Claimant further alleged that Hartman assured him that his risk of loss would be held to no more than \$2,000 to \$3,000. Claimant alleged that Hartman repeatedly assured Claimant that he would limit Claimant's losses. Accepting Hartman's representations and advice, Claimant began trading in Qualcomm stock and, as of the end of February, 1995 had lost approximately \$1,000. Claimant alleged that when he returned from the hospital on or about March 20, 1995, Hartman had sold out Claimant's position in Qualcomm at a loss of approximately \$10,900. Claimant alleged that Respondents are responsible for his losses in Qualcomm that are over and above the risks that Claimant told Hartman he was willing to sustain.

Respondents categorically denied all wrongdoing asserted by Claimant. Respondents' maintained, among other things, that Claimant was a sophisticated investor, fully knowledgeable in short selling, puts and calls, and that Claimant identified Qualcomm as an investment opportunity on his own, Hartman agreed and suggested a plan for investment in Qualcomm. However, Respondents asserted that Claimant refused to follow the explicit advice of Hartman by not selling out his position in Qualcomm stock on or about January 23, 1995 at which time his losses would have been no more than \$4,000. Respondents maintained that Claimant chose to follow the advice of a newsletter which had recommended further short sales should the price of Qualcomm go up. Respondents maintained that because of the volatility in the trading price of Qualcomm, it was impossible to limit Claimant's losses. Respondents' maintained that when Claimant's position was sold out it resulted in a loss of approximately \$10,000. Respondents maintained that Hartman, at all times, exercised diligent care. Respondents maintained that had Hartman not acted as promptly as he did, Claimant's losses would have been more significant.

### RELIEF REQUESTED

Claimant requested \$8,000 in damages, plus interest and costs.

Respondents' requested that the claim be dismissed in its entirety with costs assessed against Claimant and that the record of Hartman be expunged of any reference to the claim filed by Claimant.

### OTHER ISSUES CONSIDERED & DECIDED

A telephone conference call took place on May 14, 1996 to resolve various motions concerning discovery. As a result of that conference call, an order regarding discovery was issued on May 15, 1996.

The parties have agreed that the Award in this matter may be executed in a handwritten, signed

award, with the parties 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 arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That the record of Gilbert F. Hartman shall be expunged of all reference to the claim filed by Claimant.
3. That each party shall bear its own expenses including attorneys' fees except as forum fees are specifically addressed herein.

### FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the following Forum Fees are assessed.

(2 hearing sessions x \$200) + \$300 pre hearing conference fee = \$700 minus hearing session deposit of 200 = net \$500 due.

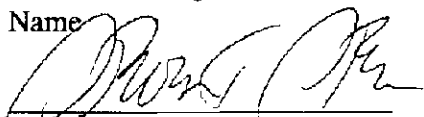
Forum Fees Assessed Against: Claimant. Claimant shall pay forum fees in the amount of \$500.

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

Arbitrator's Signature

Date Signed

Name

  
Steven T. Stern, Presiding Arbitrator  
Public Arbitrator

8/14/96

Date Award Served By NASD Regulation, Inc.: August 20, 1996