

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Monica J. Mahloch  
Roger E. Mahloch

95-04147

Name of Respondents

Smith Barney Shearson, Inc.  
Garrett A. Martin

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REPRESENTATION

Claimants Monica J. and Roger E. Mahloch ("Claimants") appeared *pro se*

Respondents Smith Barney Shearson, Inc. ("Smith Barney") and Garrett A. Martin ("Martin") were represented by Marion S. Chan, Associate General Counsel, Smith Barney Shearson, Inc., New York, NY

CASE INFORMATION

The Statement of Claim was filed August 29, 1995.  
Claimants' Uniform Submission Agreement was signed August 24, 1995.

The Joint Statement of Answer of Smith Barney and Martin (collectively "Respondents") was filed October 20, 1995.  
Smith Barney's Uniform Submission Agreement was signed on October 18, 1995.  
Martin's Uniform Submission Agreement was signed on October 11, 1995.

HEARING INFORMATION

Hearing Date/Sessions: April 10, 1996/two sessions

Hearing Location: NASD, Inc.  
Washington, DC

CASE SUMMARY

Claimants alleged, among other things, that Respondents induced Claimants to authorize unsuitable transactions in Blackstone Income Trust ("BLT"). Claimants alleged that it was unsuitable to place one hundred percent (100%) of Monica Mahloch's funds, which were designated for income and preservation of principal, in BLT. Claimants alleged that Respondents were informed that Monica Mahloch's investment goals were income. Claimants alleged that it

was unsuitable for Respondents to recommend that Roger Mahloch's assets be placed in only two stocks. Claimants alleged that approximately fifty percent (50%) of Roger Mahloch's portfolio assets, which was designated for income and preservation of principal, were in BLT and the remainder were in Fannie Mae REMIC. Claimants alleged that Respondents had been informed that Claimants investment goals for these two accounts were the generation of substantial income plus the growth of principal. Claimants alleged that while BLT generated the required income of approximately \$36,000.00, the Respondents should have known it was unsuitable for growth or preservation of principal. Claimants alleged that their \$216,000.00 investment in BLT decreased by approximately \$39,000.00 by the time Claimants began to sell it. Claimants alleged that Respondents are liable for the damage they suffered.

Respondents categorically denied all allegations of wrong doing. Respondents maintained that BLT was suitable for Claimants at the time BLT was purchased. Respondents maintained that BLT met the investment goals as formulated by Claimants. Respondents maintained that Claimants were informed of the risk attached when Claimants attempted to generate income greater than that which they would achieve with the lower rates of secured investments. Respondents maintained that suitability is measured at the time of the investment and not at some later time after the investments decrease in value. Respondents maintained that there was adequate diversification in Claimants' portfolio, as the two accounts at issue in this action represented only a fraction of Claimants' million dollar retirement fund. Respondents maintained that Claimants' retirement fund increased in value over the relevant period of time. Respondents maintained that any loss suffered by Claimants were the result of Claimants' own actions and market fluctuations.

#### RELIEF REQUESTED

Claimants requested relief of \$39,562.50; pre-award interest; and \$10,000.00 lost investment opportunity.

Respondents requested that the Statement of Claim be dismissed in its entirety and that costs of this arbitration, including reasonable attorneys' fees be assessed to Claimants.

OTHER ISSUES CONSIDERED & 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain 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. As Claimants failed to demonstrate that the investment in BLT was unsuitable at the time of the recommendation and purchase, the Statement of Claim is denied in its entirety.
2. Each side shall bear its own expenses, including attorneys' fees.
3. Any and all relief not specifically addressed herein is denied.

FORUM FEES

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

2 sessions x \$400.00 = \$800.00

Forum Fees are assessed to Claimants. Claimants are to receive credit for the \$400.00 hearing session deposit previously filed with the NASD, leaving a net assessment of \$400.00.

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

Date

Concurring Arbitrators' Signatures

4/26/96

Sharon T. Nelson  
Sharon T. Nelson, Presiding  
Public Arbitrator

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Steven G. Shapiro  
Public Arbitrator

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Anne Q. Uno  
Industry Arbitrator

Date Decision Served by NASD: May 26, 1996

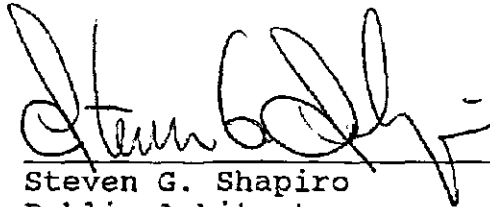
Date

Concurring Arbitrators' Signatures

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Sharon T. Nelson, Presiding  
Public Arbitrator

4/25/96



Steven G. Shapiro  
Public Arbitrator

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Anne Q. Uno  
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Date Decision Served by NASD: May 26, 1996

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