

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Glen R. Breach

95-04931

Name of Respondents

Smith Barney Inc.  
Roger Vlach

National Association of  
Securities Dealers, Inc.

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on October 18, 1995, Claimant Glen R. Breach ("Claimant"), who appeared Pro Se, alleged that Respondent Smith Barney Shearson, Inc. ("Smith Barney") and Respondent Roger Vlach ("Vlach"), failed to pay him back earnings or principal on his investment, McNeil XII Limited Partnership ("McNeil XII"), as Vlach had indicated would happen. Claimant further contended that when he questioned Vlach about the status of his investment, he responded to the effect that "everything was OK, and that it was taking a bit longer than anticipated to pay out the gains and principal, and that I should not make any changes." Claimant asserted that the investment failed to yield the financial return represented by the Respondents. Claimant further asserted that as a result of the wrongdoing of the Respondents, he has suffered damages for which the Respondents should be held liable.

Respondent Smith Barney Inc. and Respondent Roger Vlach, through their representative and in-house counsel Ann Parry, Esq., maintained that their Answer would address only those claims based on the allegations of wrongdoing occurring on or after October 12, 1989, as all other allegations were barred by the applicable statute of limitations. Respondents denied that they ever represented McNeil XII as being "OK" or that it "was taking a bit longer than anticipated to pay out the gains and principal." Respondent Vlach also unequivocally denied that he ever said or implied that Claimant should "not make any change at this time." Respondents further maintained that at no time did Vlach ever guarantee to Claimant that McNeil XII would meet its initial objectives or that the partnership's performance would rebound. Respondents contended that during the entire period of this investment, Claimant was provided with quarterly and annual reports directly from the General Partner. Respondents maintained that they had committed no wrongdoing and requested that the claims against them be dismissed.

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**RELIEF REQUESTED**

Claimant Glen R. Breach requested \$10,000.00 in actual damages.

Respondent Smith Barney Shearson, Inc. and Respondent Roger Vlach requested that the claims of the Claimant be dismissed.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Roger Tilbury, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Glen R. Breach on October 12, 1995, and by the Respondent Smith Barney Inc. on June 25, 1996 and by the Respondent Roger Vlach on July 1, 1996.

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 Glen R. Breach against Respondent Smith Barney Inc. and Respondent Roger Vlach are dismissed in their entirety, pursuant to Section 15 of the NASD Code of Arbitration Procedure.
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 Glen R. Breach shall be retained by the NASD, Inc.

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AFFIRMATION

STATE OF Oregon

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SS:

COUNTY OF Multnomah

I, Roger Tilbury 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.

Roger Tilbury  
Signature of Arbitrator

DATE, OF DECISION: August 15 , 1996