

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Serenella Arthur c/f Robert A. Signore

95-05056

Name of Respondents

Smith Barney, Inc. f/k/a Shearson Lehman Brothers
Stuart Kirk Eason

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 25, 1995, Claimant Serenella Arthur ("Claimant"), custodian for Robert A. Signore, through her representative and counsel, Diane Polan, of the Law Offices of John R. Williams, located in New Haven, Conn., alleged that Respondents Smith Barney, Inc. f/k/a Shearson Lehman Brothers ("SB") and Stuart Kirk Eason ("Eason"), improperly released account information, and therefore violated her privacy. Claimant further alleged that in 1992, her former father-in-law, Anthony Signore ("A. Signore"), purchased from Eason a \$15,000.00 bond for his grandson, Robert A. Signore, and named Claimant as sole custodian. Claimant maintained that this arrangement was made in an attempt to resolve a child support issue for A. Signore's son, the father of Robert A. Signore, and was entered as a court order. Claimant further contended that Eason initially set up the account so that copies of monthly statement were forwarded only to A. Signore. Claimant alleged that the statements began to be forwarded to her after several months, but that they still were forwarded to A. Signore, and further that she never authorized Eason or Shearson Lehman Brothers to disclose account information to A. Signore, or to her former husband, Robert Signore. Claimant further alleged that in 1993, almost a year after the account was opened, she contacted Eason to demand that he stop sending statements to A. Signore, and that he refused to do so unless he received a written request. Claimant contended that in April, 1993, she instructed Eason to sell the bond and send her the proceeds. Claimant further contended that Eason complied with her request, however, he contacted A. Signore and R. Signore and advised them that the bond had been sold. Claimant alleged that R. Signore obtained a restraining order prohibiting the distribution of the funds to Claimant, pending a court date. Claimant further alleged that in connection with removing the restraining order, she suffered expenses, costs and extreme distress, for which the Respondents should be held liable.

Respondents Smith Barney, Inc. f/k/a Shearson Lehman Brothers and Stuart Kirk Eason, through their representative and in-house counsel, John P. Bevilacqua, Esq., maintained that Eason committed no wrongdoing, and that Claimant suffered no damages while the court order prohibited distribution because the bonds generated interest during that time. Respondents further maintained that A. Signore purchased bonds for the benefit of Robert A. Signore, placed them into a Uniform Gift to Minors Act Account ("UGMA"), and named Claimant as the custodian. Respondents contended that Claimants verbally requested the removal of A. Signore as an interested party to the account, but that they informed Claimant that they would need a written request. Respondents further contended that Claimant's new husband inquired about using the account for personal use and that in 1993, Claimant instructed Respondents to liquidate the bonds purchased in the account. Respondents maintained that they executed Claimant's instructions and then notified A. Signore of the sale, since they had not received a written demand to remove him as an interested party. Respondents further maintained that they violated no rules or regulations and are not responsible for the court order which delayed distribution of the proceeds of the account, and therefore, they should not be held liable.

Respondents alleged, in a Counterclaim against the Claimant, that Claimant committed willful and wanton breach of her contractual duties by insisting on pursuing a wrongful court action in connection with this dispute, and therefore, that Claimant should be held liable for Respondents' costs and attorneys' fees expended in defending against Claimant's claims in court.

In its Reply to the Counterclaim, Claimants maintained that Respondents' Counterclaim for attorney and filing fees is simply an effort to intimidate small investors and dissuade people from pursuing litigation and arbitration against large and powerful investment companies.

RELIEF REQUESTED

Claimant Serenella Arthur c/f Robert A. Signore, requested \$10,000.00, representing expenses incurred in connection with the temporary restraining order, plus damages for breach of confidentiality, invasion of privacy and emotional distress.

Respondents Smith Barney, Inc. f/k/a Shearson Lehman Brothers and Stuart Kirk Eason, requested that the claims of the Claimant be dismissed and that they be awarded \$3,527.04 for expenses, costs and attorneys' fees in connection with this dispute.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, David Brooks Adcock, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Serenella Arthur c/f Robert A. Signore, on November 28, 1995, and by the Respondent Smith Barney f/k/a Shearson Lehman Brothers, on January 23, 1996, and by the Respondent Stuart Kirk Eason, on February 12, 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 Serenella Arthur c/f Robert A. Signore, against the Respondent Smith Barney f/k/a Shearson Lehman Brothers and Stuart Kirk Eason, are dismissed in their entirety.
2. The Counterclaim of Respondent Smith Barney f/k/a Shearson Lehman Brothers and Stuart Kirk Eason, against the Claimant Serenella c/f Robert A. Signore is dismissed in its entirety.
3. The parties shall bear their respective costs and attorneys' fees.
4. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Serenella Arthur c/f Robert A. Signore, shall be retained by the NASD, Inc.
5. The \$575.00 counterclaim filing fee previously deposited with the NASD Inc. by the Respondents Smith Barney Inc. f/k/a Shearson Lehman Brothers and Stuart Kirk Eason, shall be retained by the NASD, Inc.

AFFIRMATION

I, **DAVID BROOKS ADCOCK, ESQ.**, 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.



DAVID BROOKS ADCOCK, ESQ.

DATE OF DECISION: April 30, 1996