

AWARD

NASD REGULATION, INC., DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

Gregory L. Fullerton

NASDR Arbitration
#95-05966

vs.

Name of Respondent(s)

Smith Barney, Inc.
Robert H. Potter

REPRESENTATION

For Claimant: Gregory D. Phillips, Esq., Kimball, Parr, Waddoups, Brown & Gee,
Salt Lake City, Utah

For Respondents: William A. Hohaus, Esq., Smith Barney, Inc., New York, New York

CASE INFORMATION

Statement of Claim filed: December 20, 1995

Amended Statement of Claim filed: June 13, 1996

Claimant's Submission Agreement filed: December 19, 1995

Joint Statement of Answer filed: February 16, 1996

Respondents' Submission Agreements signed:

Smith Barney: February 15, 1996

Robert Potter: None submitted

HEARING INFORMATION

Pre-hearing telephone conferences of one session each were held on August 9, 1996, and January 27, 1997.

The evidentiary hearing was held in Salt Lake City, Utah, as follows:

| | | |
|-------------------|---|------------|
| November 12, 1996 | - | 2 sessions |
| November 13, 1996 | - | 2 sessions |
| November 14, 1996 | - | 2 sessions |
| November 21, 1996 | - | 2 sessions |
| March 5, 1997 | - | 2 sessions |
| March 6, 1997 | - | 1 session |

CASE SUMMARY

Claimant alleged churning, unauthorized trading, lack of supervision, and unsuitability with respect to the handling of his account. Claimant alleged he received shares of Franklin Quest through the initial public offering, placed most of the shares with Respondents and relied on Respondents to prepare a financial and investment plan. Claimant alleged Respondents assumed control of the account and began to engage in numerous unauthorized transactions in common stocks and options financed by the sale of his Franklin shares, until Claimant moved his account to another brokerage firm.

Respondents denied the allegations of the claim, and replied that Claimant's investment objective was to trade his account actively, that Claimant was closely involved in all transactions and was in continuous contact with Respondents concerning his account activity. Respondents asserted that Claimant controlled his account, approved all trades, and followed stock market activity on his personal real-time stock quote service. Respondents further stated that Claimant withdrew significant amounts of money from his account, causing frequent margin calls which had to be met by the sale of stock from the account.

RELIEF REQUESTED

Claimant requested damages in excess of \$3,000,000, plus exemplary and punitive damages of \$10,000,000, plus interest, treble damages pursuant to Section 61-1-22(2) of the Utah Uniform Securities Act, attorney's fees and costs of arbitration.

Respondents requested dismissal of the claims and the assessment of costs against Claimant.

OTHER ISSUES

The parties have agreed to receive copies of the Award while the originals remain on file with the NASDR.

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. Respondents are jointly and severally liable for, and shall pay to Claimant, the sum of \$66,152 in satisfaction of all claims.
2. The claims for punitive and exemplary damages, and the claims under Section 61-1-22(2) of the Utah Uniform Securities Act are dismissed.
3. The parties shall each bear their respective costs, including attorney's fees.

FORUM FEE

Pursuant to Section 10332 of the Code of Arbitration Procedure, the NASDR shall retain Claimant's \$300 non-refundable filing fee.

Forum fees are to be assessed as follows:

Total fees:

| | |
|---|--------------|
| 2 pre-hearing telephone conferences @ \$300/session | \$ 600 |
| 11 hearing sessions @ \$1500/session | <u>16500</u> |
| | \$17,100 |
| Claimant's one-half share | \$8550 |
| Credit for deposit | <u>1500</u> |
| Balance due | \$7050 |
| | ----- |
| Respondents' joint and several one-half share | \$8550 |
| | ----- |

Fees are payable to the NASDR, Inc.

ARBITRATORS

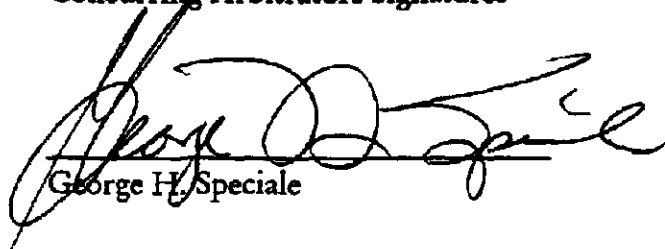
Name

George H. Speciale
George J. Karlsven, Jr.
George John Potter

Public / Industry

Public
Public
Industry

Concurring Arbitrators Signatures



George H. Speciale

George J. Karlsven, Jr.

George John Potter

Date of Decision: _____

Date Served" 03/31/97