

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Dan and Florence Kurzman

96-00586

Name of Respondents

Smith Barney Inc.  
Albert Del Maestro

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 9, 1996, Claimants Dan and Florence Kurzman ("Claimants"), who appeared Pro Se, alleged that Respondents Smith Barney Inc. ("Smith Barney") and Albert Del Maestro ("Del Maestro"), improperly handled Claimants' investments and gave faulty investment advice. Claimants further alleged that Del Maestro sold six of their bonds on May 12, 1995 and bought ten different bonds that same day without their authorization. Claimants contended that Del Maestro failed to obtain their prior approval before buying and selling the bonds and that the purchased bonds were clearly unsuitable for their investment portfolio. Claimants further contended that against their investment instructions, Del Maestro purchased bonds with a lower return rate than the bonds which were sold. Claimants asserted that because the Respondents imprudently invested their capital, their capital has been wasted and they have been deprived a reasonable return thereon. Claimants further asserted that due to the wrongdoing of the Respondents, they have suffered damages for which the Respondents should be held liable.

Respondents Smith Barney Inc. and Albert Del Maestro, through their representative and counsel, Linda R. Alpert, Esq., maintained that all trades met Claimants' investment objectives, were suitable for their portfolio, and were fully authorized. Respondents further maintained that Claimants gave their approval to sell the six CMO's and buy the ten corporate bonds at issue. Respondents alleged that the benefits and risks of each investment were explained to Claimants and they simply reneged on the trades after they were authorized and approved. Respondents further alleged that the Claimants' damage calculation had no merit as the Claimants' account continued to remain profitable as of the date Claimants transferred it to Charles Schwab & Co. in February, 1996. Respondents denied any allegation of churning, asserted that they had committed no wrongdoing, and requested that the claims against them be dismissed.

**RELIEF REQUESTED**

Claimants Dan and Florence Kurzman, requested \$8,596.40 in actual damages.

Respondents Smith Barney Inc. and Albert Del Maestro, requested that the claims of the Claimants be dismissed. The Respondents also requested that they be reimbursed the costs of defending the action.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Martin Jay Siegel, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants Dan and Florence Kurzman, on November 8, 1995, and by the Respondent Smith Barney Inc., on March 22, 1996, and by Respondent Albert Del Maestro, on March 4, 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. Respondent Smith Barney Inc. is liable and shall pay to the Claimants Dan and Florence Kurzman, \$2,043.00 in actual damages.
2. The claims of the Claimants Dan and Florence Kurzman against Respondent Albert Del Maestro are dismissed in their entirety.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Dan and Florence Kurzman, shall be retained by the NASD, Inc. Respondent Smith Barney Inc. is liable and shall pay to Claimants Dan and Florence Kurzman, \$150.00 as reimbursement of the filing fee.

AFFIRMATION

STATE OF

NY

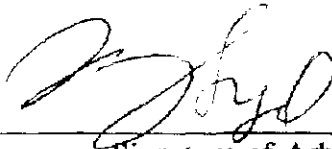
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SS:

COUNTY OF

NY

I, MARTIN J Siegel, 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.



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Signature of Arbitrator

DATE OF DECISION:

June 27, 1996