

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Saleem H. Malik

96-00682

Name of Respondent

Smith Barney Inc.
Victor E. Lambert, III

REPRESENTATION

For claimant Saleem H. Malik ("claimant") appeared Sheldon Eisenberger, Esq. a sole practitioner located in New York City, New York.

For respondents Smith Barney, Inc. ("SBS") and Victor E. Lambert, III ("Lambert"), (collectively referred to as "respondents") appeared in-house counsel for SBS, Sean J. Coughlin, Esq..

CASE INFORMATION

Statement of Claim filed: February 15, 1996.

Claimant's Submission Agreement signed on: January 5, 1996.

Statement of Answer filed jointly by respondents on: April 10, 1996.

Respondent SBS's Submission Agreement signed on: April 10, 1996.

Respondent Lambert's Submission Agreement signed on: April 24, 1996.

HEARING INFORMATION

Hearing Dates/Sessions:	October 28, 1996	3 sessions
	November 4, 1996	2 sessions
	December 16, 1996	2 sessions

The hearings were conducted at the offices of the National Association of Securities Dealers, Inc. located at 33 Whitehall Street, New York City, New York.

CASE SUMMARY

Claimant alleged that he maintained an investment account at SBS and that respondents repeatedly disregarded his investment guidelines and placed him in unsuitable investments given his investment profile and objectives. Claimant further alleged that Lambert misled and misrepresented relevant facts and circumstances with respect to his investments. Claimant also alleged that Lambert mishandled and mismanaged the account and that SBS failed to adequately supervise Lambert in his role as his financial advisor. Claimant contended that he requested the following as his investment criteria: 1) Triple AAA rated paper only; 2) no risk; 3) designed to seek moderate returns, with no threat to principal; and, 4) no investment in instruments with a maturity of more than four to five years. Claimant further contended that he also authorized the purchase of stocks subject to stop loss protection. Claimant also contended that Lambert chose not to follow the instructions and purchased shares of Apple Computer which were later sold for a loss. Claimant asserted that Lambert purchased shares of Hyperion despite having a maturity date of nine years. Claimant further asserted that Lambert failed to follow his instruction to sell Telecom Argentina in 1994 and that it then lost value. Claimant also asserted that Lambert purchased shares of preferred stock which led to a 15% tax impact on the shares. Claimant alleged that as a result of the above, he has suffered a loss for which respondents should be held liable.

Respondents maintained that claimant has not alleged any violations of federal securities laws, industry violations, or New York State law. Respondents further maintained that claimant has alleged that he has sustained unrealized losses in his investment in Hyperion, suffered unspecified tax consequences as a result of profitable investments in preferred stocks, made unspecified allegations concerning the investments in certain Collateralized Mortgage Obligations ("CMO's") and lost on his investment in Apple Computer. Respondents also maintained that claimant is attempting to "cherry pick" unsuccessful investments in an account which has been quite profitable. Respondents contended that claimant's alleged investment objectives were not those he offers in the Statement of Claim but that he actually invested in high technology firms, pharmaceutical companies, foreign stocks and emerging growth mutual funds. Respondents further contended that claimant's investment objectives were growth and businessman's risk. Respondents also contended that claimant never gave instructions to place a stop loss order on Apple Computer. Respondents asserted that claimant was provided with full information concerning Hyperion and did not instruct Lambert to sell Telecom Argentina. Respondents further asserted that claimant's CMO purchases were explained to him and that claimant has failed to quantify his losses. Respondents also asserted that claimant's account has not lost value and that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Saleem Hamid Malik requested \$480,000.00 in damages plus, costs, attorney's fees, interest, punitive damages and such other and further relief as the arbitration panel deems just, proper and equitable.

Respondents Smith Barney, Inc. and Victor E. Lambert, III requested that all claims be dismissed and that costs be assessed against Claimant.

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. The claims of the claimant Saleem H. Malik against respondents Smith Barney, Inc. and Victor E. Lambert, III are denied in their entirety.
2. The parties shall bear their respective costs and attorney's fees.
3. All other relief requests are denied.

OTHER COSTS

Respondent Smith Barney, Inc. shall pay to the National Association of Securities Dealers, Inc. \$350.00 in satisfaction of the member surcharge pursuant to Section 10333 of the NASD Code of Arbitration Procedure.

FORUM FEES

Pursuant to Section 10332(c) of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain the \$200.00 non-refundable filing fee previously deposited by claimant and have assessed the following forum fees:

7 sessions x \$750.00	= \$5,250.00
Minus claimant's \$750.00 deposit	= <u>\$ 750.00</u>
Total Outstanding	= \$4,500.00

Claimant Saleem H. Malik be and hereby is liable for the sum of \$5,250.00 representing the total amount of forum fees assessed. Claimant previously deposited \$750.00 with the NASD. Therefore, the claimant shall pay an additional \$4,500.00 to the NASD, Inc.

Page Four

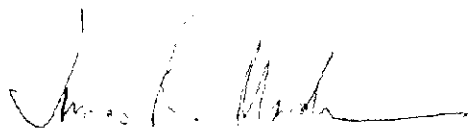
Fees are payable to the National Association of Securities Dealers, Inc.

Diana Friedman
Diana Friedman

I, **Diana Friedman**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

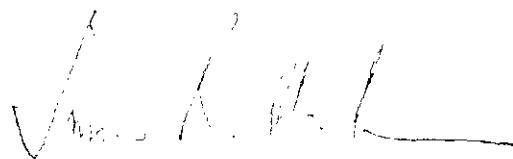
Diana Friedman
Diana Friedman
Public Panelist

DATE OF DECISION: JANUARY 29, 1997



James R. Madan

I, **James R. Madan**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



James R. Madan
Industry Panelist

DATE OF DECISION : January 29, 1997

ARBITRATORS' SIGNATURES

Robert Pincus, Esq.

I, **Robert Pincus**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Robert Pincus, Esq.
Chairperson

Date of DECISION: January 29, 1997