

**AWARD**

**NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION**

In the matter of the Arbitration Between

**Name of Claimant(s)**

Diane Chidester

Arbitration  
No. 96-01220

**Name of Respondent(s)**

Smith Barney Inc.  
Reid Cuthbert

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**REPRESENTATION**

For Claimant: Diane Chidester, Ogden, Utah

For Respondents: Etta M. Gumbs, Esq., Smith Barney Inc., New York,  
New York

**CASE INFORMATION**

Statement of Claim filed: June 24, 1996

Supplement to Statement of Claim together with attachments filed:  
June 26, 1996

Claimant's Submission Agreement signed: March 15, 1996

Joint Statement of Answer filed by Respondents: August 13, 1996

Respondents did not file Submission Agreements. However, they appeared at the hearing and are subject to NASD Regulation, Inc. (NASDR) jurisdiction in accordance with Section 10301 of the NASDR Code of Arbitration Procedure.

### HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):

January 20, 1997 (one session)

Hearing Date(s)/Session(s): May 19, 1997 (one session)

Hearing Location: Salt Lake City, Utah

### CASE SUMMARY

Claimant alleged that Respondents and Claimant's sister sold stock without properly notifying Claimant, contrary to the terms of the parties' contract.

Respondents denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondents alleged that according to the allegations in the Statement of Claim this matter appears to concern two accounts: account number 883-31617-01 (Frank E. Van de Vanter's IRA account) and account number 883-12702-13 (the joint account of Frank E. Van de Vanter, Diane Chidester and Carolyn Kester). Respondents further alleged that the claims concerning account number 883-31617-01 should be denied as Claimant has no standing to challenge or address any transactions occurring within the account. Respondents further alleged that the claims concerning account number 883-12702-13 should be dismissed as all transactions were authorized by Carolyn Kester, one of the joint owners of the account. Respondents also asserted affirmative defenses.

### RELIEF REQUESTED

Claimant requested approximately \$50,000.00 in damages.

Respondents requested dismissal of Claimant's claims and requested that this matter be expunged from Reid Cuthbert's record contained in the NASDR's Central Registration Depository.

### OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 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. All claims by Claimant are dismissed.
2. The panel determined that the U-4 file of Reid Cuthbert shall be expunged of any reference to the above-captioned matter. The panel requests that any reference to the above-captioned matter be expunged from Mr. Cuthbert's record contained in the NASDR's Central Registration Depository.
3. The parties shall each bear their respective costs including attorney's fees.

#### FORUM FEES

Pursuant to Section 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed: Forum fees shall be split between Claimant and Respondent Smith Barney Inc. and are calculated as follows:

One pre-hearing session @ \$300.00/session	=	\$300.00
One hearing session @ \$400.00/session	=	<u>\$400.00</u>
Total fees assessed	=	\$700.00
Claimant's share (50%)	=	\$350.00
Balance due	=	\$350.00
Smith Barney Inc.'s share (50%)	=	\$350.00
Balance due	=	\$350.00

Fees are payable to NASD Regulation, Inc.

ARBITRATORS

Name ..... Public / Industry

George H. Speciale, Esq.

Public Arbitrator

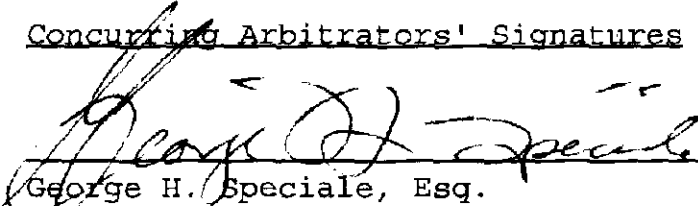
David R. King, Esq.

Public Arbitrator

George John Potter

Industry Arbitrator

Concurring Arbitrators' Signatures

  
George H. Speciale, Esq.

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David R. King, Esq.

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George John Potter

Date of Decision: May 30, 97

Date Served: 06/12/97