

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Names of Claimants

Susan Rossel
Barry R. Eisenberg, P.C.
Philip Sufian Trust

96-01338

Names of Respondents

Kara Boudreau Grady
Smith Barney, Inc.

REPRESENTATION

For Claimants Susan Rossel, Barry R. Eisenberg, P.C., and the Philip Sufian Trust (collectively referred to as the "Claimants"), appeared David B. Bruckman, Esq., with the law offices of Barry R. Eisenberg, P.C., located in White Plains, New York.

For Respondents Smith Barney, Inc. ("Smith Barney") and Kara Boudreau Grady ("Grady") appeared Etta M. Gumbs, Esq., Associate General Counsel of Smith Barney, Inc.

CASE INFORMATION

Claimants' Statement of Claim was filed on March 25, 1996. Claimant Rossel's Submission Agreement was signed on March 9, 1996. Claimant Barry R. Eisenberg, P.C. was signed on March 20, 1996. Philip Sufian Trust was signed on May 3, 1996.

Respondents' Statement of Answer was filed on August 20, 1996. Respondents did not file Submission Agreements.

HEARING INFORMATION

Pre-Hearing Conference:	November 11, 1997	-	One Session
Hearing Date/Sessions:	May 19, 1998	-	Two Sessions

The pre-hearing conference was held telephonically. The hearing was conducted at the Marriott Hotel located in Tarrytown, New York.

CASE SUMMARY

Claimants alleged that Respondent Grady recommended several high-risk, high-volatility, emerging advanced technology stocks for investment, and that Claimants had informed Grady that they wanted to invest in stable, growth-oriented securities. Claimants further alleged that they had minimal investment experience at the time the accounts in question were opened, on or about March 11, 1994.

According to the Claimants, Respondent Grady's knowledge of Claimants' investment objectives was reflected by Grady's entries made in account opening documents, her entries in the Smith Barney account tracking computer system, and printouts of Smith Barney computer entries. Claimants stated that their "long-term growth, low volatility investment philosophy" was further manifested by the dividend reinvestment plans entered in two of the three accounts, and by the stop-loss orders placed on selected securities prior to the stocks' declines.

Claimants alleged that, of the initial investments they each made on or about March 11, 1994, \$249,511.20 was invested in Susan Rossel's account, \$99,916.39 was invested in the Philip Sufian Trust account, and \$25,073.50 was invested in the Barry R. Eisenberg, P.C. account. Claimants asserted that, out of the aggregate \$374,509.09 invested, a total of \$85,073.45, less commissions, was placed in National Semiconductor Corp., EMC Corp., and Xircom, Inc. Claimants further alleged that the prices on the stocks in question dropped considerably in the months following purchase, such that by the time the stocks were sold off in large sell orders on August 1, 1994 and September 6, 1994, Claimants had lost an aggregate \$23,016.36 on these investments.

In addition, Claimants contended that Smith Barney both introduced and made a market in National Semiconductor Corp. and EMC Corp. and that it was unclear whether Smith Barney had an introductory and/or market making role with respect to Xircom. Claimants further contended that Grady was under considerable internal pressure from her employer to place the high-risk technology stocks into the hands of the investing public, and that Smith Barney's practices led to the relative unsuitability of the stocks recommended for purchase by Claimants.

Respondents denied the allegations set forth by the Claimants, contending that any losses sustained by Claimants in their accounts with Smith Barney were the result of Claimants' fully informed decisions to buy, sell, and hold the securities in question. Respondents maintained that Barry R. Eisenberg, who made the investment decisions for Claimants' accounts, was an experienced New York area attorney with a twenty-year history of investing in stocks, and who received full disclosure from Grady regarding the risks associated with each investment.

Respondents further maintained the two primary investment objectives that Mr. Eisenberg expressed were growth and liquidity with moderate risk. Respondents contended that the securities recommended by Grady were highly capitalized and well-known, and were consistent with the objectives expressed by Claimants.

RELIEF REQUESTED

Claimants requested an award of \$34,155.15, comprised of \$23,016.36 in actual principal losses, \$2,836.00 in lost opportunity costs, \$2,302.79 in commissions, and \$6,000.00 in combined NASD costs and attorney's fees expended or reasonably anticipated to be incurred during arbitration, plus interest from September 6, 1994.

Respondent requested that the claim be denied in its entirety and that the Panel sign an order expunging this case from Respondent Grady's registration record.

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 original remains on file with the NASD.

The panel made the following determinations concerning Smith Barney and Grady, who did not file a Submission Agreements in this matter:

1. Pursuant to Rule 10101 of the Code of Arbitration Procedure (the "Code"), the arbitrators found subject matter jurisdiction over this entire controversy.
2. The panel found that Smith Barney was a member of the NASD and Grady was a person associated with a member of the NASD at the time this controversy arose. Accordingly, the panel found personal jurisdiction over Smith Barney and Grady pursuant to Rule 10301 of the Code.
3. The panel found that Smith Barney and Grady were required to file Submission Agreements with NASD Regulation pursuant to Rule 10314(b) of the Code. In this regard, the panel found that the Statement of Claim was properly served upon Smith Barney and Grady pursuant to Rule 10314 (a) of the Code.

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 claim of Claimants Susan Rossel, Barry R. Eisenberg, P.C., and Leona Sufian, Barbara Eisenberg and Susan Rossel as Trustees of the Philip Sufian Trust is dismissed in its entirety.
2. Based on the merits of this case, the claim of Claimants against Respondent Kara Boudreau Grady shall be expunged from Kara Boudreau Grady's permanent CRD record by NASD Regulation, Inc.

3. Each party shall bear their respective costs, except that Smith Barney is liable and shall pay Claimants the sum of \$400.00 to reimburse Claimant for the hearing session deposit previously paid to NASD Regulation, Inc.
4. All other relief requests are denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code of Arbitration Procedure Respondent Smith Barney has paid to NASD Regulation, Inc. the \$400.00 member surcharge previously invoiced.

FORUM FEES

Pursuant to Rule 10332(c) of the NASD Regulation Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$100.00 non-refundable filing fee and \$400.00 postponement fee paid by Claimant and have assessed the following forum fees:

1 pre-hearing conference (full panel) X \$400.00	=	\$400.00
2 hearing sessions X \$400.00	=	\$800.00

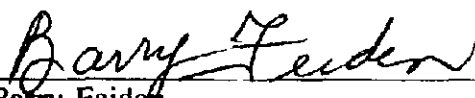
Total forum fees	=	\$1,200.00

Respondent Smith Barney is hereby liable for the sum of \$1,200.00, representing the total amount of forum fees assessed. Claimants previously deposited \$400.00 with NASD Regulation, Inc., and, therefore, Respondent Smith Barney shall pay the balance of \$800.00 to NASD Regulation, Inc. and shall pay \$400.00 to Claimants as provided in the "Award" section above.

Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

Lawrence A. Pittore, Esq.
Chairperson-Public Arbitrator




Barry Feiden
Public Arbitrator

Thomas A. Turley
Industry Arbitrator

Date of decision: July 24, 1998

I, **Barry Feiden**, 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.



Barry Feiden

ARBITRATORS' SIGNATURES



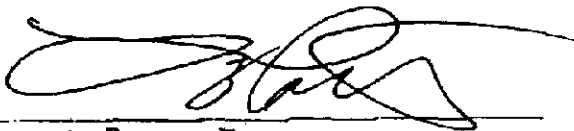
Lawrence A. Pittore, Esq.
Chairperson-Public Arbitrator

Barry Feiden
Public Arbitrator

Thomas A. Turley
Industry Arbitrator

Date of decision: July 24, 1998

I, Lawrence A. Pittore, 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.

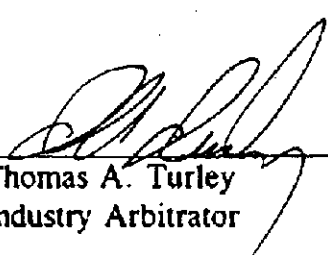


Lawrence A. Pittore, Esq.

ARBITRATORS' SIGNATURES

Lawrence A. Pittore, Esq.
Chairperson-Public Arbitrator

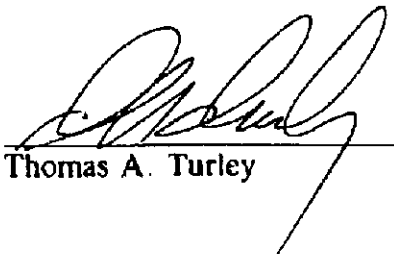
Barry Feiden
Public Arbitrator



Thomas A. Turley
Industry Arbitrator

Date of decision: July 24, 1998

I, **Thomas A. Turley**, 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.



Thomas A. Turley