

ORDER

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

Smith Barney, Inc.

v.

Arbitration No.
96-01993

Name of Respondents

Brian G. DiJulio
Barbara J. DiJulio

REPRESENTATION OF PARTIES

Smith Barney, Inc. ("**Claimant**") was represented by Eric D. Lansverk, Esq., Hillis Clark Martin & Peterson, Seattle, Washington.

Brian G. DiJulio and Barbara J. DiJulio ("**Respondents**") were represented by Robert B. Gould, Esq., Law Offices of Robert B. Gould, Seattle, Washington.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about May 9, 1996.

Claimant's Submission Agreement was signed on May 21, 1996.

Smith Barney, Inc.'s Reply to Respondents' Counterclaim was filed on or about August 23, 1996.

Smith Barney's Opposition to Respondents' Motion for Summary Judgement was filed on or about April 7, 1997.

Smith Barney's Motion for Summary Judgement was filed on or about March 19, 1997.

Declaration of Linda Alpert in Support of Smith Barney's Motion for Summary Judgement was filed on or about March 19, 1997.

Smith Barney's Reply in Support of Motion for Summary Judgement was filed on or about April 10, 1997.

(Smith Barney's) Opposition to Respondents' Motion for Leave to Amend Answer, Affirmative Defense and Counterclaim was filed on or about April 21, 1997.

The Statement of Answer, Affirmative Defense, and Counterclaim for Brian G. DiJulio and Barbara J. DiJulio was filed on or about July 23, 1996.

The Submission Agreement for Brian G. DiJulio was signed on July 23, 1996.

Respondents' Motion for Summary Judgement was filed on or about March 11, 1997.

"Proposed" Order Granting Respondents' Motion for Summary Judgement was filed on or about March 11, 1997.

Respondents' Memorandum in Support of Motion for Summary Judgement was filed on or about March 18, 1997.

Declaration of Robert B. Gould in Support of Respondent DiJulios' Motion for Summary Judgement was filed on or about March 18, 1997.

Mr. and Mrs. DiJulio's Response to Smith Barney's Motion for Summary Judgement was filed on or about April 4, 1997.

Affidavit of Brian G. DiJulio was filed on or about April 2, 1997.

Declaration of Robert B. Gould was filed on or about April 4, 1997.

Motion for Leave to Amend Respondents' Answer, Affirmative Defense, and Counterclaim and for Expedited Hearing was filed on or about April 11, 1997.

First Amended Answer, Affirmative Defenses, and Counterclaims was filed on or about April 11, 1997.

HEARING INFORMATION

Telephonic Pre-hearing conferences were held on: February 20, 1997-	one session;
April 22, 1997-	one session.

CASE SUMMARY

Claimant alleges that the Respondents are liable for amounts awarded following a prior arbitration in which the award, although joint and several, apportioned liability between Smith Barney and Brian G. DiJulio. Claimant further alleges that the Respondents initially negotiated a payment schedule (promissory note) and began making payments pursuant to that schedule. Claimant is seeking the remaining amount owed following Respondents termination of monthly payments.

The Respondents deny that any agreement was reached or any promissory note was signed with the Claimant. Respondents further argue that the claims brought by the Claimant are barred by applicable statutes of limitation, res judicata and collateral estoppel.

RELIEF REQUESTED

Claimant requested an award in the amount of \$36,836 plus interest and attorney's fees.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded costs and attorney's fees of at least \$3,750.00.

DECISION

After considering the pleadings, the motions and all responses, and the oral argument, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

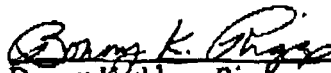
1. Smith Barney's Motion for Summary Judgement is granted;
2. Respondents' Motion for Summary Judgement is denied;
3. Respondents' Motion for Leave to Amend Respondents' Answer is granted and the First Amended Answer, Affirmative Defenses and Counterclaims is allowed;
4. Respondents, both the separate property of Brian G. DiJulio and the marital community of Brian G. DiJulio and Barbara J. DiJulio, are ordered to pay to Claimant the sum of \$30,930.76.
5. Respondents, both the separate property of Brian G. DiJulio and the marital community of Brian G. DiJulio and Barbara J. DiJulio, are ordered to pay to Claimant interest at 10% to accrue from June 17, 1996 until this award is satisfied;
6. Claimant is awarded and the Respondents, both the separate property of Brian G. DiJulio and the marital community of Brian G. DiJulio and Barbara J. DiJulio, shall pay to Claimant the sum of \$3,750.00 in attorney's fees pursuant to paragraph (5) of the promissory note attached as exhibit "G" to the Declaration of Linda Alpert in Support of Smith Barney's Motion for Summary Judgement.

FORUM FEES

No forum fees are assessed in this case.

Dated:

Mark D. Roth, Esq.
Industry Arbitrator, Presiding Chair


Bonny Kathleen Riggs
Industry Arbitrator

4-25-97

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William B. Donley
Industry Arbitrator

Date Served: 04/25/97