

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimants

Melvin Wallshein
Melissa Wallshein
Melvin Wallshein, Rollover
Melvin Wallshein, DDS PC Profit Sh Trust
Melvin Wallshein, DDS PC Pension Trust
Melvin & Evelyn Wallshein Foundation Sp
Melvin Wallshein, IRA
Melissa J. Wallshein, IRA

96-02220

Name of Respondents

Smith Barney Inc.
Ronald M. Friedman

REPRESENTATION

For Claimants Melvin Wallshein, Melissa Wallshein, Melvin Wallshein DDS PC Profit Sharing Trust, Melvin Wallshein DDS PC Pension Trust, and Melvin & Evelyn Wallshein Foundation (collectively "claimants") appeared Gregory S. Goodman, Esq. of the law offices Goodman & Goodman located in Coram, New York.

For Respondents Smith Barney, Inc. ("Smith Barney") and Ronald M. Friedman ("Friedman") (collectively "respondents") appeared Victor A. Machinski, Jr., Esq., Associate General Counsel for Smith Barney.

CASE INFORMATION

Statement of Claim was filed on: May 20, 1996.

Melvin Wallshein's Submission Agreement was signed on: May 6, 1996.

Melissa Wallshein's Submission Agreement was signed on: May 13, 1996.

Melvin & Evelyn Wallshein Foundation's Submission Agreement was signed on: June 17, 1996.

Melvin Wallshein DDS PC Profit Sharing Trust's Submission Agreement was signed on: June 17, 1996.

Melvin Wallshein DDS PC Pension Trust's Submission Agreement was signed on: June 17, 1996.

Joint Statement of Answer was filed by respondents on: November 4, 1996.
Respondent Smith Barney's Submission Agreement was signed on: November 4, 1996.
Respondent Ronald M. Friedman did not file a properly executed Submission Agreement.

HEARING INFORMATION

Hearing Dates/Sessions:	June 25, 1996	-	2 sessions
	June 26, 1996	-	2 sessions

The hearings were conducted at the offices of NASD Regulation located in New York, New York.

CASE SUMMARY

Claimants alleged that, upon opening their accounts, they informed Friedman that they had almost no knowledge of the market and that their investment objective was to seek long term growth with some tolerance for risk. Claimants contended that Melvin Wallshein gave full written and verbal discretionary authority to Friedman to manage all of their accounts. Claimants alleged that, in disregard of their financial condition and investment objectives, respondents over concentrated claimants' funds in taxable money market funds. In addition, claimants contended that by keeping their funds in money market funds, Friedman caused claimants to lose additional interest and capital gains which other more appropriate investments would have generated and also caused them to incur unnecessary tax liabilities. Claimants further alleged that Smith Barney failed to adequately supervise Friedman's actions and the accounts under his care.

Respondents alleged that claimants' investment objectives consisted of income and growth with a moderate risk tolerance and that claimants only gave Friedman written discretion in one of their accounts. Respondents also alleged that any recommendations or discretionary transactions which were actually made by Friedman for claimants' accounts were suitable in view of claimants' age, assets, stated investment experience and investment objectives. Moreover, respondents contended that, although claimants could have had a different mix of suitable securities at given times, the existence of alternative investments did not render the securities that were actually purchased unsuitable. In addition, respondents maintained that claimants received transactional confirmation slips and monthly account statements and that they were aware of the activity in their accounts, including the nature and frequency of transactions, the positions in their accounts, the market value of their portfolio and the results of particular transactions. Respondents also maintained that, if claimants considered Friedman's investment strategy to be "too conservative" then, claimants could have sought advice elsewhere. Respondents further contended that, in accordance with proper brokerage procedure and industry rules and regulations governing the supervision of employees, Smith Barney supervised Friedman.

RELIEF REQUESTED

Claimants requested actual damages in the amount of \$500,000.00, plus costs, expenses and

disbursements, including reasonable attorneys' fees. In addition, claimants requested punitive damages in the amount of \$500,000.00.

Respondents requested that claimants' Statement of Claim be dismissed in its entirety. In addition, respondents requested that they be awarded their fees and expenses, including attorneys' fees, forum fees and all other costs in this proceeding.

OTHER ISSUES CONSIDERED & DECIDED

At the opening of the hearing on June 25, 1996, claimants withdrew all claims brought by Melissa Wallshein.

During the hearing respondents withdrew their tenth affirmative defense (Rule 10304) asserted in their joint Statement of Answer.

The panel made the following determinations concerning respondent Friedman, who did not file a Submission Agreement:

1. Pursuant to Rule 10101 of the Code of Arbitration Procedure (the "Code"), the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that Friedman was a person associated with a member of the NASD at the time this controversy arose. Accordingly, the panel found personal jurisdiction over Friedman pursuant to Rule 10201 of the Code.
3. The panel found that Friedman was required to file a Submission Agreement with NASD Regulation pursuant to Rule 10314(b) of the Code.

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. All claims are hereby dismissed in their entirety.
2. Claimants' request for punitive damages is hereby denied.
3. Claimants' requests for costs, expenses and disbursements, including attorneys' fees are hereby denied.

4. All other requests are hereby denied.

FORUM FEES

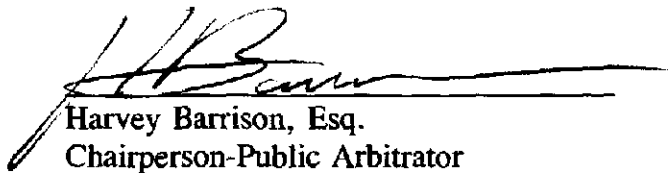
Pursuant to Rule 10332(c) of the Code the arbitrators have determined that NASD Regulation shall retain the \$250.00 non-refundable filing fee and have assessed the following forum fees:

4 hearing sessions x \$1,000.00	=	\$4,000.00
member surcharge	=	\$ 500.00

1. Claimants be and hereby are jointly and severally liable for \$4,000.00, representing the total amount of forum fees assessed for the hearings conducted in this matter. Claimants previously deposited \$1,000.00 with NASD Regulation and, therefore, shall pay the balance of \$3,000.00.
2. Respondent Smith Barney be and hereby is liable for and shall pay to NASD Regulation the sum of \$500.00, representing the member surcharge.

Fees are payable to the NASD Regulation, Inc.

Arbitrators' Signatures



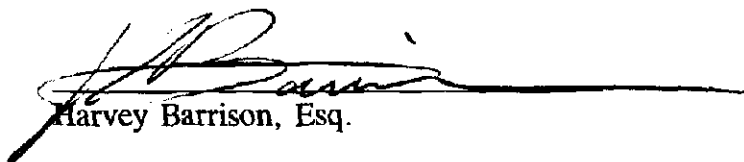
Harvey Barrison, Esq.
Chairperson-Public Arbitrator

William Friedman, Esq.
Public Arbitrator

Seth G. Rosen
Industry Arbitrator

Date of Decision: July 29, 1997

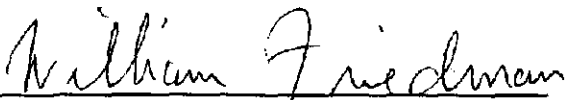
I, **Harvey Barrison, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules that I am the person described herein who executed this instrument which is my award.



Harvey Barrison, Esq.

Arbitrators' Signatures

Harvey Barrison, Esq.
Chairperson-Public Arbitrator

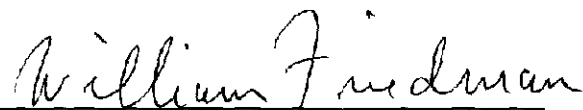


William Friedman, Esq.
Public Arbitrator

Seth G. Rosen
Industry Arbitrator

Date of Decision: July 29, 1997

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




William Friedman, Esq.

Arbitrators' Signatures

Harvey Barrison, Esq.
Chairperson-Public Arbitrator

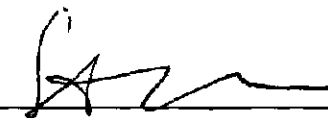
William Friedman, Esq.
Public Arbitrator



Seth G. Rosen
Industry Arbitrator

Date of Decision: July 29, 1997

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



Seth G. Rosen