

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimants

Bernard Turkewitz

96-03055

Name of Respondents

Smith Barney Inc.

REPRESENTATION

Claimant Bernard Turkewitz ("Claimant") appeared Pro-Se.

For Respondent Smith Barney, Inc. ("Respondent") appeared, Nicole L. Felton, Esq., in-house-counsel located in New York, New York.

CASE INFORMATION

The Statement of Claim was received on July 17, 1996. Claimant's Submission Agreement was signed on July 17, 1996.

The Statement of Answer was filed by Respondent on September 20, 1996. Respondent's Submission Agreement was signed on September 20, 1996.

HEARING INFORMATION

Hearing dates/sessions: April 9, 1997 - Two Sessions

The hearings were held at the offices of NASD Regulation, Inc., located at New York, New York.

CASE SUMMARY

Claimant alleged that, on June 29, 1996, he purchased from Respondent \$100,000.00 worth of New York State General Obligation bonds, due December 15, 2003 with a 6.50% interest rate, non-callable, in registered form, with the bond to be delivered to him by the Respondent. Claimant further alleged that, by June 5, 1996, he had timely delivered the full purchase price of the bond, \$109,353. Claimant also alleged that Respondent was aware that he would only purchase registered bonds which could be put into his possession and, instead of receiving a registered bond for which he had paid a substantial premium, Respondent attempted to pass off a "transferable custodial receipt" ("TCR") disguised to look like a bond. Claimant asserted that he returned the TCR to the Respondent and demanded delivery of the registered bond. Claimant further asserted that the manager of the Respondent's office where he purchased the bond, Keith Sheppard ("Sheppard"), told him that Respondent would have to pay a 20% premium in

order to obtain comparable bonds in registered form and they had no intention of doing so. Claimant also asserted that, on July 5, 1996, he informed the Respondent by facsimile and letter that he would prefer to have the bond and not the premium and, on July 12, 1996, Respondent refunded his purchase price but failed to refund all of the interest. Claimant contended that Respondent's attempt to pass off unregistered bonds as registered bonds was fraudulent.

Respondent maintained that, on May 29, 1996, Claimant purchased a New York State General Obligation Bond due December 15, 2003 with a 6.5% coupon rate for \$109,317.00 with an extended settlement date of June 17, 1996. Respondent further maintained that, on July 1, 1996, Claimant called complaining that he wanted an actual bond certificate instead of a custodial certificate. Respondent also maintained that the United States Trust Company of New York, the custodian of the bond, only issued custodial receipts and not bond certificates. Respondent contended that, on July 10, 1996, it delivered to Claimant a check in the amount of \$109,708.57 which included the original purchase price of the bond plus accrued interest. Respondent further contended that it was not trying to pass off an "unregistered" bond and that the custodial receipt Claimant received provided the same protection as a bond certificate. Respondent also contended that Claimant's assertion that he is entitled to 20% of the purchase price of the bond, because that is what it would cost in its certified form, is erroneous since a certified form of the bond that the Claimant purchased did not exist. Respondent alleged, as affirmative defenses, that the claim failed to state a claim on which relief can be granted, Claimant has suffered no damages, Claimant is not entitled to punitive damages and that his loss calculation is unsupported by the law and/or facts.

RELIEF REQUESTED

Claimant requested \$21,871.00 in actual damages, interest of \$561.33 and punitive damages in the amount of \$65,613.00 and such other relief as is deemed just.

Respondent requested that the Statement of Claim be dismissed in its entirety and that Respondent be awarded costs and reasonable attorneys' fees.

OTHER ISSUES CONSIDERED AND 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. Claimant's claims are dismissed in their entirety.
2. All requests for attorney fees are denied.
3. All requests for punitive damages are denied.
4. Bruce Thomkin's Form U-4 is to be expunged from any reference to this matter.

5. All other requests for relief are denied.

FORUM FEES

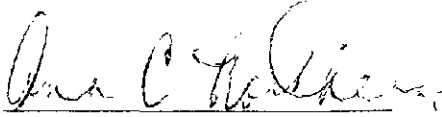
Pursuant to Rule 10332 of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$150.00 non-refundable filing fee previously deposited by the Claimant and have assessed the following forum fees:

2 Hearing Sessions x \$500.00 = \$500.00

Claimant, Bernard Turkewitz, be and hereby is liable and shall pay to NASD Regulation Inc. \$1,000.00 representing the total amount of forum fees assessed. Claimant previously deposited \$500.00 dollars to NASD Regulation, Inc. Therefore, Claimant, Bernard Turkewitz, shall pay to NASD Regulation, Inc. the sum of \$500.00.

Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES



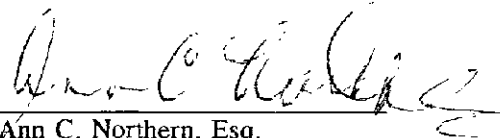
Ann C. Northern, Esq.

Date of Decision 6/12/97

Anthony P. Connelly

Thomas A. Turley

I, Ann C. Northern, Esq., 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.



Ann C. Northern, Esq.

I, Anthony P. Connelly, 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.

Anthony P. Connelly

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

ARBITRATORS' SIGNATURES

Ann C. Northern, Esq.


Anthony P. Connelly

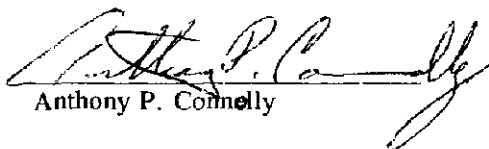
Date of Decision 6/12/97

Thomas A. Turley

I, Ann C. Northern, Esq., 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.

Ann C. Northern, Esq.

I, Anthony P. Connelly, 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.


Anthony P. Connelly

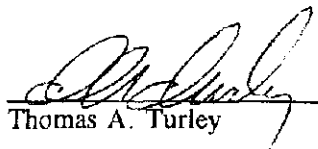
I, Thomas A. Turley, do hereby affirm, pursuant to article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Thomas A. Turley

ARBITRATORS' SIGNATURES

Ann C. Northern, Esq.

Anthony P. Connelly



Thomas A. Turley

Date of Decision 6/12/97

I, Ann C. Northern, Esq., 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.

Ann C. Northern, Esq.

I, Anthony P. Connelly, 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.

Anthony P. Connelly

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