

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Tommy S. Giljum

and

96-03096

Name of Respondents

Smith Barney, and
Robert Campbell

REPRESENTATION OF PARTIES

Tommy S. Giljum ("**Claimant**") was represented by Michael Salcido, Esq., Phoenix, Arizona.

Smith Barney Inc. ("**SBI**") and Robert Campbell ("**Campbell**") (collectively referred to as "**Respondents**") were represented by Marion Chan, Esq., of Smith Barney, Inc., New York, New York.

CASE INFORMATION

Claimant filed the Statement of Claim on or about July 16, 1996, and signed the Submission Agreement on July 15, 1996.

Respondents filed their Statement of Answer on or about October 17, 1996, and signed the Submission Agreements on October 17, 1996 and September 13, 1996, respectively.

HEARING INFORMATION

A telephonic pre-hearing conferences was held on September 17, 1997 for one (1) session.

The Arbitration Panel held a hearing on November 13, 1997 in Scottsdale, Arizona for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged the following violations of applicable statutes, rules and regulations: Securities fraud in violation of ARS §44-1991; fraud; unsuitable investment recommendations; dishonest and unethical conduct as defined in the Arizona securities Act, AAC R14-4-130; breach

of fiduciary duty; negligent supervision and/or failure to supervise; negligent misrepresentations; and negligence. The allegations arose from transactions in, but not limited to, CML shares.

Respondents denied the allegations set forth in the Statement of Claim and asserted that Claimant is entitled to no relief whatsoever. Respondents also asserted the following affirmative defenses: Claimant failed to state a claim upon which relief can be granted; Respondents did not violate any rules, regulations, guidelines or other applicable laws; Claimant is barred from recovery based on his failure to mitigate his own damages; Claimant is barred from recovery based on the doctrines of waiver, estoppel, ratification and/or laches; and any losses allegedly incurred by Claimant were caused by market forces beyond the control of respondents.

RELIEF REQUESTED

Claimant requested the following remedies: Compensatory damages of at least \$30,767.00; pre and post judgment interest until the award is paid in full; "opportunity" or "Benefit of the Bargain" losses based on how Claimant's account would have performed had it been properly managed; disgorgement of all commissions and margin interest charged to his account; and his costs and attorney's fees incurred herein, including all NASD filing and expert witness fees, pursuant to ARS §§12-341.01 and 44-2001.

Respondents requested that the Statement of Claim be dismissed in its entirety, and that respondents be awarded their costs and reasonable attorneys' fees incurred in defense of this matter.

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(s) remain on file with NASD Regulation, Inc. Office of Dispute Resolution.

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:

Respondents are jointly and severally liable for, and shall pay to Claimant the following: \$27,500 as an award of compensatory damages; \$13,750 as an award of attorney's fees; and \$520 as an award of the costs of filing this arbitration.

All other claims/requests for relief are, and each of them, denied with prejudice.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each prehearing conference, if any. There was one (1) pre-hearing session 2 @ \$300 and two (2) hearing sessions @ \$400 = \$1,100 in forum fees. Pursuant to Rule 10332(b) of the Code of Arbitration Procedure (the 'code'), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable filing fee in the amount of \$120 and shall **retain** as forum fees the hearing session deposit in the amount of \$400 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by the Claimant.

Pursuant to Rule 10333 of the Code, NASD Regulation, Inc. Office of Dispute Resolution shall **retain** the non-refundable member surcharge in the amount of \$200 previously paid by SBI.

Additional forum fees in the amount of \$700 are assessed by the arbitrators jointly and severally against the respondents.

Pursuant to Rule 10319 of the Code, Claimant is liable for, and shall pay to NASD Regulation, Inc. Office of Dispute Resolution postponement fees in the amount of \$800.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Dated:

Matthew R. Gould
Matthew R. Gould
Public Arbitrator, Presiding Chair

/s/

January 28, 1998

Ted R. Pickett
Ted R. Pickett
Public Arbitrator

/s/

January 28, 1998

Deeann Jo Griebel
Deeann Jo Griebel
Industry Arbitrator

/s/

January 28, 1998