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NASD REGULATION, INC. AWARD

OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between

Name of Claimant

Helen Ollinger

96-03492

Name of Respondents

Smith Barney Inc.
Lawrence Basse

REPRESENTATION

For Claimant Helen Ollinger ("Claimant") appeared James R. DeVita, Esq., a sole practitioner with offices located in New York, New York.

For Respondents Smith Barney Inc. ("Smith Barney") and Lawrence Basse ("Basse"), collectively referred to as "Respondents", appeared Alejandro Schwed, Esq., of the firm Smith Barney Inc., located in New York, New York.

CASE INFORMATION

Statement of Claim filed on: August 05, 1996.

Claimant's Submission Agreement signed on: July 09, 1996.

Respondents filed a Joint Statement of Answer on: October 08, 1996.

Respondent Smith Barney's Submission Agreement signed on: October 08, 1996.

Respondent Basse failed to file a properly executed Submission Agreement as required by Rule 10314(b) of the NASD Regulation, Inc. Code of Arbitration Procedure (the "Code").

HEARING INFORMATION

Pre-Hearing Conference:	April 23, 1997	One Session
Hearing Dates/Sessions:	May 14, 1997	Two Sessions
	May 15, 1997	Two Sessions

The pre-hearing conference was held telephonically. The hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimant stated that in late 1985, she opened an individual account with Smith Barney, with the proceeds from the sale of her home, and that her stated investment objective for the account was low-risk, income producing investments. Claimant further stated that she applied for check writing privileges for the account, on which she was the exclusive authorized signer.

Claimant alleged that Respondents allowed her husband, George Ollinger ("Ollinger"), to make unauthorized trades in her account and to draw checks on Claimant's forged signature. Claimant further alleged that Basse never discussed with her establishing a margin account, purchasing options, rights, or warrants, nor was she contacted to confirm any trades in her account or notified that out of sequence checks were routinely drawn against her account. Claimant also alleged that the cashing of these checks against her account, contributed to an increasing margin balance. Claimant asserted that a financial institution is liable for charges against a customer that result from forged checks, which are not legally payable.

Claimant alleged that Basse was never authorized to engage in discretionary trading in her account and that Claimant was the only person with the authority to buy or sell securities in regards to her account. Claimant further alleged that Ollinger was never authorized to engage in trading in her account. Claimant also alleged that prior to the securities she purchased to open the account, she has never authorized the execution of or executed trades in the account, yet between 1988 and 1994 there were at least 106 unauthorized trades executed in her account.

Respondents maintained that under Section 15 of the Code, the parties are bound, both by contract and rule, to arbitrate only those claims arising within the last six years. Respondents further maintained that Claimant complains of investments made between 1986 and 1994, but that the Statement of Claim is dated August 05, 1996; and therefore, falls under the rules of Section 15 of the Code.

Respondents maintained that Claimant received monthly statements and confirmations during the period she had an account at Smith Barney. Respondents further maintained that the original account opened by Claimant at Smith Barney was a joint account with Ollinger, and that a single account in Claimant's name was later opened with funds and investments transferred from the joint account. Respondents also maintained that Ollinger placed the investment orders for the account with Claimant's knowledge and consent, and furthermore, confirmations and monthly statements were sent to Claimant and her husband.

Respondents maintained that Claimant never brought to their attention, in eight years, that there were problems with the checks being cashed against the account. Respondents further maintained that it may be assumed that due to this, Claimant either did not check the monthly statements or question why she was not receiving the statements. Respondents also maintained that Claimant's forgery claim is therefore barred by Section 3406 of the Uniform Commercial Code, in that her negligence substantially contributed to the making of the alleged unauthorized signatures of the drawer upon the checks.

RELIEF REQUESTED

Claimant requested:

- (a) compensatory damages in the amount of \$521,486.50, plus interest for the unauthorized payment of forged checks;
- (b) compensatory damages in the amount of \$71,400.00 for unauthorized trading activity in her account and unsuitable investments made;

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- (c) compensatory damages in the amount of \$82,249.36 for unauthorized borrowing against the asset value of her portfolio; and
 - (d) costs, attorneys' fees, arbitration costs, and punitive damages.

Respondents requested that the Statement of Claim be dismissed and that all costs be assessed against Claimant.

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.

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 asserted by Claimant against Respondent Smith Barney and Basse are dismissed in their entirety.
2. Each party is to bear their own costs, including attorneys' fees.

3. All other requests for relief are hereby denied.

FORUM FEES

Pursuant to Rule 10332 of the Code, the arbitrations have determined that the NASD will retain the \$250.00 non-refundable filing fee and hearing session deposit paid by Claimant and have assessed the following Forum Fees:

1 Pre-hearing conference x \$300.00	=	\$ 300.00
4 Hearing sessions x \$1,000.00	=	<u>\$4,000.00</u>
Total Forum Fees	=	\$4,300.00
Hearing Session Deposit	=	<u>(\$1,000.00)</u>
Balance Due NASD Regulation, Inc.	=	\$3,300.00

1. Respondent Smith Barney is liable and shall pay to NASD Regulation, Inc. the sum of \$1,650.00 representing one-half of the forum fee balance due. assessed.
2. Respondent Basse is liable and shall pay to NASD Regulation, Inc. the sum of \$1,650.00 representing one-half of the forum fee balance due.

Fees are payable to NASD Regulation, Inc..

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ARBITRATORS' SIGNATURES

I, William A. Mechmann, 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.

William A. Mechmann

William A. Mechmann, Esq.
Public Chairperson

I, Lawrence A. Siegel, 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. Siegel

Public Panelist

I, Paul D. Schneider, 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.

Paul D. Schneider, Esq.
Industry Panelist

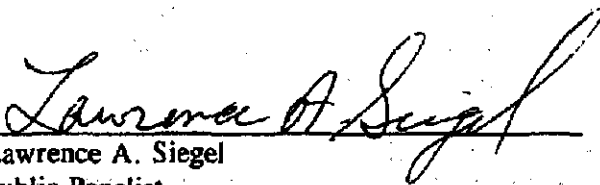
Date of Decision: December 29, 1997

ARBITRATORS' SIGNATURES

I, William A. Mechmann, 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.

William A. Mechmann, Esq.
Public Chairperson

I, Lawrence A. Siegel, 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. Siegel
Public Panelist

I, Paul D. Schneider, 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.

Paul D. Schneider, Esq.
Industry Panelist

Date of Decision: December 29, 1997

01/13/98

ARBITRATORS' SIGNATURES

I, William A. Mechmann, 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.

William A. Mechmann, Esq.
Public Chairperson

I, Lawrence A. Siegel, 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. Siegel
Public Panelist

I, Paul D. Schneider, 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.



Paul D. Schneider, Esq.
Industry Panelist

Date of Decision: December 27, 1997