

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

Irwin H. Shapiro

v.

Arbitration No.
96-03904

Name of Respondent

Smith Barney, Inc.

REPRESENTATION

For Claimant:

Benjamin Blakeman, Esq.
Mantelica & Treadwell
Los Angeles, California

For Respondent:

Etta M. Gumbs, Esq.
Smith Barney, Inc.
New York, New York

CASE INFORMATION

Statement of Claim filed:

August 30, 1996

Claimant's Submission Agreement signed:

August 20, 1996

Statement of Answer filed by Respondent:

December 4, 1996

HEARING INFORMATION

Pre-Hearing Conferences/Sessions:

April 7, 1997 (1 session)
July 22, 1997 (1 session)

Hearing Dates/Sessions:

January 28, 1998 (2 sessions)
January 29, 1998 (2 sessions)

Hearing Location:

Los Angeles, California

CASE SUMMARY

Claimant alleged that Respondent Smith Barney was liable under the doctrine of respondent superior for the wrongful acts committed against Claimant by one of its employees. Specifically, Claimant alleged Respondent was liable for the losses Claimant incurred when his sales assistant embezzled funds from his checking account.

Respondent denied Claimant's claims in their entirety and asserted that the doctrine of respondent superior did not apply because the sales assistant was not acting within the course and scope of her employment at Respondent Smith Barney.

RELIEF REQUESTED

Claimant sought compensatory damages in the amount of \$45,690.00 as well as costs.

Respondent sought dismissal of Claimant's Statement of Claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 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:

1. Claimant's claim is denied in its entirety.
2. Each party shall bear its own attorney's fees and costs.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

One (1) Pre-Hearing Conference @ \$300.00/Session	= \$300.00
One (1) Pre-Hearing Conference @ \$600.00/Session	= \$600.00
<u>Two (2) Hearing Sessions @ \$600.00/Session</u>	<u>= \$1,200.00</u>
Total Forum Fees Assessed	= \$2,100.00

Claimant's One-Half Share	= \$1,050.00
<u>Claimant's Credit for Hearing Session Deposit</u>	<u>= (\$600.00)</u>
Claimant's Balance Due	= \$450.00

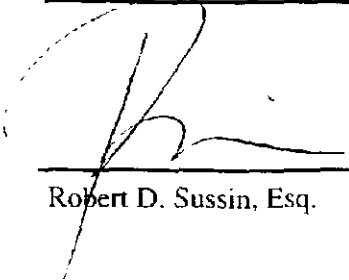
<u>Respondent's One-Half Share</u>	<u>= \$1,050.00</u>
Respondent's Balance Due	= \$1,050.00

Fees are payable to NASD Regulation, Inc.

ARBITRATORS

<u>Name.....</u>	<u>Public/Industry</u>
Robert D. Sussin, Esq.	Industry Arbitrator
Roberta Haft	Industry Arbitrator
David D. Holt	Industry Arbitrator

Concurring Arbitrators' Signatures



Robert D. Sussin, Esq.

Roberta Haft

David D. Holt

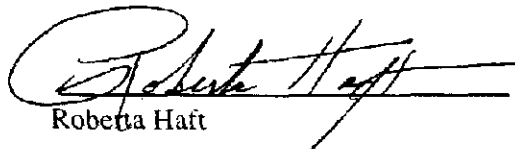
Date of Service: 6 February 1998

ARBITRATORS

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