

**N.A.S.D. AMENDED AWARD**

**NASD Regulation, Inc. Office of Dispute Resolution**

**In the Matter of the Arbitration Between**

**Name of Claimants**

Jay Liebman  
Bella Liebman (deceased)

96-04272

**Name of Respondents**

Smith Barney, Inc.  
Roger Farquhar  
Randall Hutchisson, Jr.  
Frank Pagnotta  
James Dimon  
Judy Maxineau

**REPRESENTATION**

For Claimants: Jay Liebman appeared for the Claimants.

For Respondents: Ann Parry, Esq., of Smith Barney, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed: September 26, 1996

Claimants' Submission Agreement signed on: September 10, 1996.

Joint Statement of Answer filed by Respondents on: November 25, 1996.

Respondent Smith Barney, Inc.'s Submission Agreement signed on: November 22, 1996.

Respondent Rodger Farquhar's Submission Agreement signed on: November 11, 1996.

Respondent Randall Hutchisson, Jr.'s Submission Agreement signed on: November 06, 1996.

Respondents Frank Pagnotta, James Dimon, and Judy Maxineau did not execute Submission Agreements.

Prior to commencement of the evidentiary hearing in this matter, the Panel considered a Motion to Dismiss Respondents Frank Pagnotta, James Dimon and Judy Maxineau and the Claimants' response thereto. After carefully considering the Motion, the Panel dismissed Respondents Frank Pagnotta, James Dimon and Judy Maxineau.

### 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 against Respondents Rodger Farquhar and Randall Hutchisson, Jr. are dismissed.
2. All references to this arbitration proceeding shall be expunged from the CRD records of Respondent James Dimon.
3. There shall be redemption to Jay Liebman of Bella Liebman's Franklin Fund IRA account presently held at Smith Barney, Inc.
4. Respondent Smith Barney, Inc. shall pay to Claimant Jay Liebman the sum of \$557.97 as a correction for five (5) uncorrected mutual fund breakpoint transactions and not as a finding of wrongdoing.
5. The Claimants' requests for punitive damages, compensatory damages, interest and sanctions are denied.
6. Each party shall bear their respective costs including attorneys' fees.
7. The Motion to Expunge all references to this arbitration from the CRD record of Respondent Frank Pagnotta is granted.

### FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,800.00 (one pre-hearing conference with the entire panel x \$500.00 plus one pre-hearing conference with the Chairperson x \$300.00 plus two hearing sessions x \$500.00)

1. Respondent Smith Barney, Inc. is hereby assessed \$1,800.00 for which the NASD Regulation, Inc. shall retain the \$500.00 previously deposited by the Claimants in partial satisfaction thereof, leaving a balance due in the sum of \$1,300.00.
2. The NASD Regulation, Inc. shall retain the \$300.00 member surcharge previously paid by the Respondent Smith Barney, Inc.

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

## Concurring Arbitrators' Signatures:

Name

Public/Industry

/S/Floyd A. Hillstrom, Esq.  
Chairperson

Public

/S/Darryll R. Bauchert, Sr., MBA

Industry

/S/Don Porter

Public

Date of Decision: \_\_\_\_\_

5/20/98