

**NASD REGULATION AWARD**

**In the Matter of the Arbitration Between**

**Name of Claimant**

Daniel E. Johnson

96-04580

**Name of Respondent**

Smith Barney Inc.

**REPRESENTATION**

Claimant Daniel E. Johnson ("claimant") appeared pro se.

For respondent Smith Barney, Inc. ("respondent") appeared Christopher B. O'Malley, Esq. of Smith Barney, Inc.

**CASE INFORMATION**

Statement of Claim was filed on: October 10, 1996.

Claimant's Submission Agreement was signed on: November 9, 1996.

Statement of Answer was filed on: January 15, 1997.

Respondent's Submission Agreement was signed on: January 14, 1997.

**HEARING INFORMATION**

Hearing Date/Session:

May 14, 1997

- One Session

The hearing was held at the American Arbitration Association located in Boston, Massachusetts.

**CASE SUMMARY**

Claimant alleged that he received a cold call from Stephen Eubanks ("Eubanks"), a financial consultant with respondent, and that Eubanks assured him that the stocks recommended to investors were thoroughly evaluated by their professional stock analysts. Claimant contended that he was led to invest in stocks where proper analysis would have yielded "red flags". Claimant was seeking full restitution for his investments in FTP Software Inc, NetManage, Inc. and PSINET, Inc.

Respondent maintained that claimant's investment objectives emphasized growth and aggressive trading and that claimant purchased a number of high tech stocks and realized gains after a short holding period. Respondent further maintained that it is not a guarantor of investments.

Respondent contended that it was claimant's decision to hold his shares based on his belief that the companies would continue with increase earnings and share prices. Respondent further contended that, when the three stocks declined in price Eubanks advised claimant to hold the securities for the long term, but that claimant decided to sell the securities.

#### **RELIEF REQUESTED**

Claimant requested \$16,559.00 in damages.

Respondent requested that the Statement Of Claim be dismissed.

#### **AWARD**

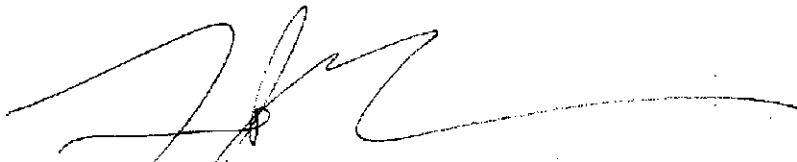
After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against respondent be and hereby are dismissed in their entirety.
2. Each party shall bear their respective costs.

#### **FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrator has determined that NASD Regulation, Inc. shall retain the \$100.00 filing fee and \$300.00 hearing session deposit previously paid by claimant as full consideration for the hearing conducted in this matter.

Arbitrator's Signature



Francis J. Feeney, Jr., Esq.  
Public Chairperson

Date of Decision: July 1, 1997