

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

Nader Mirzai, Claimant v. Smith Barney, Inc., Ted Kenney, Thorn N. Robertson,
Elaine C. Dodson, and Keith D. Knabke, Respondents.

Case Number: 96-05383

Hearing Site: Los Angeles, California

REPRESENTATION OF PARTIES

For Claimant:

Nancy B. Duffy, Esq.
Law Office of Nancy B. Duffy
Santa Barbara, California

For Respondents Smith Barney, Inc.,
Ted Kenney and Elaine C. Dodson:

Sean J. Coughlin, Esq.
Smith Barney, Inc.
Office of the General Counsel
New York, New York
and
Paul J. Schumacher, Esq.
Keesal, Young & Logan
Long Beach, California

For Respondent Thorn N. Robertson:

Mitchell J. Albert, Esq.
Albert & Will, LLP
Torrance, California

CASE INFORMATION

Statement of Claim filed:

December 3, 1996

Claimant's Submission Agreement signed:

December 3, 1996

Joint Statement of Answer filed by
Respondents Thorn Norman Robertson and
Elaine Carpenter Dodson:

October 14, 1997

Joint Statement of Answer filed by
Respondents Smith Barney, Inc. and
Ted Kenney:

February 26, 1997

Respondent Smith Barney, Inc.'s
Submission Agreement signed: February 26, 1997

Respondent Ted Kenney's
Submission Agreement signed: March 4, 1997

Respondent Thorn N. Robertson's
Submission Agreement signed: June 12, 1999

Respondent Elaine C. Dodson's
Submission Agreement signed: June 12, 1999

CASE SUMMARY

Claimant alleged the following causes of action: breach of contract, breach of fiduciary duty, fraud, deceit, and negligence.

Respondents Smith Barney, Inc. (and all predecessor firms), Kenney, Robertson, and Dodson denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

RELIEF REQUESTED

Claimant requested \$650,000.00 in compensatory damages, pre-award and post award interest, punitive damages, and exemplary damages.

Respondents Smith Barney, Inc. (and all predecessor firms), Kenney, Robertson, and Dodson requested dismissal of the Claimant's Statement of Claim in its entirety, costs and attorney's fees.

OTHER ISSUES CONSIDERED AND 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.

On January 8, 1999, Claimant dismissed Ted Kenney from this action with prejudice.

On June 24, 1998, the Office of Dispute Resolution received notice that Keith Dennis Knabke filed for bankruptcy on December 31, 1992.

AWARD

After considering the pleadings, the evidence presented at the hearing, and the post-hearing submissions, the Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1) All of Claimants claims are dismissed with prejudice as to Respondents Smith Barney, Inc. (and all predecessor firms), Kenney, Robertson, and Dodson.
- 2) Allowable costs to prevailing parties
- 3) Each side will bear its own attorney's fees.
- 4) All references to Arbitration Case No. 96-05383 shall be expunged from Thorn N. Robertson's CRD record.
- 5) All references to Arbitration Case No. 96-05383 shall be expunged from Ted Kenney's's CRD record.
- 6) All references to Arbitration Case No. 96-05383 shall be expunged from Elaine C. Dodson's CRD record.
- 7) All references to Arbitration Case No. 96-05383 shall be expunged from Smith Barney, Inc. and it predecessor firms' CRD records.
- 8) All relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. has received the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$250.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the event of the dispute. Accordingly, the member firm, Smith Barney, Inc., is a party and the following fees are assessed:

Member Surcharge	= \$500.00
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Adjournment Fees

The following adjournment fees are assessed against Claimant by the Arbitration Panel:

August 5, 1997 adjournment requested by Claimant	= \$ 500.00
<u>May 27, 1998 adjournment requested by Claimant</u>	<u>= \$1,000.00</u>
Total Adjournment Fees	= \$1,500.00

The following adjournment fees are jointly and severally assessed against Respondents Smith Barney, Inc., Robertson and Dodson by the Arbitration Panel:

January 12, 1999 adjournment requested by	
<u>Respondents Smith Barney, Inc., Robertson and Dodson</u>	<u>= \$ 500.00</u>
Total Adjournment Fees	= \$ 500.00

Forum Fees and Assessments

The Arbitration Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(3) Pre-hearing conference sessions with the Panel @ \$1,000.00/Session	= \$3,000.00
Pre-hearing conferences:	
May 23, 1997 (1 Session)	
August 4, 1997 (1 Session)	
April 5, 1999 (1 Session)	
 (18) Hearing sessions @ \$1,000.00/Session	 = \$18,000.00
Hearings:	
January 12, 1999 (1 Session)	
April 19, 1999(2 Sessions)	
April 20, 1999(2 Sessions)	
April 21, 1999(2 Sessions)	
June 12, 1999(2 Sessions)	
June 13, 1999(2 Sessions)	
June 14, 1999(2 Sessions)	
July 24, 1999(3 Sessions)	
July 25, 1999(2 Sessions)	
 Total Forum Fees	 <u>= \$21,000.00</u>

The Arbitration Panel has assessed \$21,000.00 of the forum fees to Claimant Nader Mirzai.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Claimant requested copies of audio tapes: =\$285.00
Respondent Smith Barney, Inc. requested copies of audio tapes: =\$285.00

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 250.00
Adjournment Fees	= \$ 1,500.00
Forum Fees	= \$21,000.00
<u>Administrative Costs</u>	<u>= \$ 285.00</u>
Total Fees	= \$23,035.00
<u>Less payments</u>	<u>= (\$1,565.00)</u>
Balance Due NASD Regulation, Inc.	= \$21,470.00

2. Respondent Smith Barney, Inc. is charged with the following fees and costs:

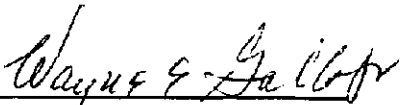
Member Fees	= \$ 500.00
<u>Administrative Costs</u>	<u>= \$ 285.00</u>
Total Fees	= \$ 785.00
<u>Less payments</u>	<u>= \$ (315.00)</u>
Balance Due NASD Regulation, Inc.	= \$ 470.00

3. Respondents Smith Barney, Inc., Dodson and Robertson are charged with the following fee:

<u>Adjournment Fee</u>	<u>= \$ 500.00</u>
Balance Due NASD Regulation, Inc.	= \$ 500.00

All balances are payable to NASD Regulation, Inc. and are due within 30 days of the award's date of service.

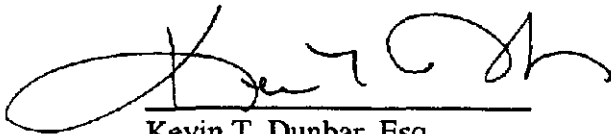
Concurring Arbitrators' Signatures



Wayne E. Gallop, Esq.
Chair, Public Arbitrator

9/17/99

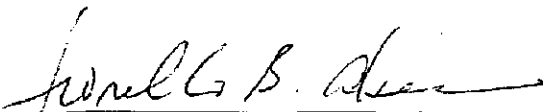
Signature Date



Kevin T. Dunbar, Esq.
Public Arbitrator

9/17/99

Signature Date



Fiorello B. Abenes
Industry Arbitrator

9-17-99

Signature Date

Sept. 20, 1999

Date of Service