

NASD REGULATION, INC.
AWARD

In the Matter of the Arbitration Between

Name of Claimants

Solomon and Leah Werzberger

vs.

Case No.
98-00057

Name of Respondents

Salomon Smith Barney, Inc. and Ivan H. Norman

REPRESENTATION

Claimants Solomon Werzberger ("Mr. Werzberger") and Leah Werzberger ("Mrs. Werzberger") (collectively "Claimants"), appeared *pro se* and are located in Monsey, New York.

Respondents Salomon Smith Barney, Inc. ("Smith Barney") and Ivan H. Norman ("Norman") (collectively "Respondents"), were represented by Etta M. Gumbs, Esq., of-counsel for Salomon Smith Barney, located in New York, New York.

CASE INFORMATION

Claimants' Statement of Claim was filed on December 29, 1997.

Claimants' Submission Agreement was signed on December 30, 1997.

Respondents' Statement of Answer was filed on April 1, 1998.

Respondents' did not sign a Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference: June 23, 1998 - 1 session

Hearing Date/Sessions: October 20, 1998 - 2 sessions

The hearings were conducted at the offices of NASD Regulation, Inc. located in New York, New York.

CASE SUMMARY

Claimants state that they opened a joint account with Smith Barney in January, 1992 with the investment objectives of income and growth.

Claimants assert that on August 15, 1997, Norman recommended Boston Financial Tax Investment Fund ("the Fund") to them. Claimants allege that Norman misrepresented the financial advantage of the securities to them and that such investment was inherently unsuitable for their financial needs. Claimants further allege that this investment was generated for the express purpose of deriving high commissions for Respondents without any economic benefit to them.

Respondents maintain that Norman discussed and reviewed Claimants' financial situation and investment objectives. Respondents further maintain that, based on Claimants' income and IRA distributions, Norman recommended the Fund. Respondents contend that Claimants initially purchased 43 shares of the Fund at \$1,000.00 on March 5, 1992. Respondents further contend that Claimants' second purchase of an additional 12 shares at \$1,000.00 on March 16, 1992 was solely the idea of Claimants. Respondents assert that Norman believed the investment would be beneficial to Claimants since he anticipated tax credits at year-end 1997 to be approximately \$540.19 per unit. Respondents assert that they provided Claimants with a prospectus as well as discussed the benefits of the Fund with them.

Respondents aver that Claimants were aware of their investment through updates and reports, and never expressed dissatisfaction with their investment until August, 1997. Respondents assert that merely because the Fund has not performed in accordance with Claimants' expectations does not make the Fund an unsuitable investment.

RELIEF REQUESTED

Claimants request \$55,000.00 in compensatory damages, with interest at a rate of 10% annually or accumulated tax credits to date.

Respondent request that the Statement of Claim be denied in its entirety.

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.

1. The panel hereby urges Respondents to cooperate and assist the Claimants in disposing of the securities which are in dispute if the Claimants are interested in liquidating the securities prior to maturity.

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. Claimants claims are hereby denied;
2. All other claims for relief are denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code of Arbitration Procedure Salomon Smith Barney, Inc. has paid NASD Regulation, Inc. the \$1,000.00 member surcharge previously invoiced.

FORUM FEES

Pursuant to Rule 10332(c) of the NASD Regulation Code of Arbitration Procedure, the arbitrators have determined that the NASD will retain the \$150.00 non-refundable filing fee deposited by Claimant and have assessed the following Forum Fees:

| | | |
|--------------------------|---|------------------------|
| 1 Pre-Hearing Conference | - | \$ 500.00 (with panel) |
| 2 Hearing Sessions | - | \$1,000.00 |
| Total Forum Fees | - | \$1,500.00 |

1. Claimants be and hereby are jointly and severally liable for the sum of \$750.00, representing one-half of the forum fees assessed. Claimants previously deposited \$500.00 with NASD Regulation, Inc. and, therefore, shall pay the balance of \$250.00.
2. Respondents be and hereby are jointly and severally liable for and shall pay the sum of \$750.00, representing one-half of the forum fees assessed.

Fees are payable to NASD Regulation, Inc.

ARBITRATION PANEL

| | | |
|-------------------------|---|---------------------|
| Romeo J. Barros, Esq. | - | Public Chairperson |
| Hillary B. Miller, Esq. | - | Public Arbitrator |
| Earl S. Schwarz | - | Industry Arbitrator |

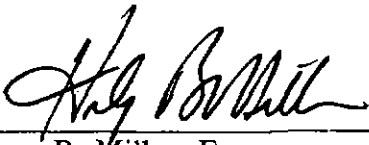
CONCURRING ARBITRATOR'S SIGNATURE



Hillary B. Miller, Esq.
Public Arbitrator

Date of decision: December 31, 1998

I, Hillary B. Miller, 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.



Hillary B. Miller, Esq.

ARBITRATION PANEL

| | | |
|-------------------------|---|---------------------|
| Romeo J. Barros, Esq. | - | Public Chairperson |
| Hillary B. Miller, Esq. | - | Public Arbitrator |
| Earl S. Schwarz | - | Industry Arbitrator |

CONCURRING ARBITRATOR'S SIGNATURE

Romeo J. Barros

Romeo J. Barros, Esq.
Chairperson-Public Arbitrator

Date of decision: December 31, 1998

I, **Romeo J. Barros, 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.

Romeo J. Barros

Name

ARBITRATION PANEL

| | | |
|-------------------------|---|---------------------|
| Romeo J. Barros, Esq. | - | Public Chairperson |
| Hillary B. Miller, Esq. | - | Public Arbitrator |
| Earl S. Schwarz | - | Industry Arbitrator |

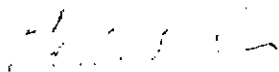
CONCURRING ARBITRATOR'S SIGNATURE



Earl S. Schwarz
Industry Arbitrator

Date of decision: 12/31 December 31, 1998

I, **Earl S. Schwarz**, 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.



Earl S. Schwarz