

**IN ARBITRATION  
UNDER CHAPTER XVIII OF THE RULES  
OF THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED**

_____	)	
In The Matter Of	)	
	)	
Customer, *	)	
	)	
Claimant,	)	DECISION
	)	
v.	)	File No.98 NM 001
	)	
Manuel Rivero and Smith Barney, Inc.,	)	
	)	
Respondents.	)	
_____	)	

**Representation**

For Claimant:	Lee Mandell, Miami, Florida
For Respondents:	Marion S. Chan, Smith Barney, Inc., New York, New York

**Pleadings**

Statement of Claim and Submission Agreement, filed on or about:	01/09/98
Letter amending Statement of Claim, filed on or about:	02/05/98
Answer and Submission Agreement, filed on or about:	02/17/98
Letter amending Statement of Claim, filed on or about:	04/27/98
Letter amending Statement of Claim, filed on or about:	08/28/98
Answer to Amended Statement of Claim, filed on or about:	09/28/98

**Hearing**

The named parties appeared at the hearing specified below, and had full opportunity to present arguments and evidence.

Date:	October 20, 1998
No. of Sessions:	2
Location:	Miami, Florida

**Summary of Issues**

The dispute claim or controversy involves the purchase of 10 NASDAQ-100 December 1997 call option contracts ("NDX Options") on December 18, 1997 by Claimant. Claimant alleges that Manuel Rivero and Smith Barney, Inc. ("Respondents") provided misinformation about the last trading day of the NDX Options and about the method of calculating the exercise settlement value of the NDX Options. Claimant

---

\* Claimants' request confidentiality pursuant to CBOE Rule 18.31.

asserts that Respondents informed him that the last day of trading was Friday, December 19, 1998 (rather than the accurate date, Thursday, December 18, 1998) and that Respondents stated that the exercise settlement value was calculated at the close of trading on December 19, 1998 (rather than on the opening of trading on December 19, 1998). Claimant further alleges that if he had known the accurate information, he would not have purchased the NDX Options. Claimant requests an award against Respondents in an amount equal to the value of the NASDAQ-100 Index at the close of trading on Friday, December 19, 1998 or the amount of \$17,126.54, which was the purchase price of the NDX Options. In addition, Claimant requests costs, out-of-pocket expenses and attorney's fees.

Respondents deny all allegations of wrong-doing and request that the Statement of Claim, in its entirety, be dismissed. Respondents request an award against Claimant for costs and attorney's fees.

#### **Award\***

After due deliberation and consideration of the hearing testimony, documentary evidence, and other submissions of the parties, the undersigned arbitrators, in full and final resolution of the matter in controversy, award as follows:

1. Respondents are responsible for and shall pay to Claimant the amount of \$17,126.54.
2. No award is rendered for interest, costs or attorneys fees.

#### **Forum Fees**

Pursuant to Chicago Board Options Exchange ("Exchange") Rule 18.33, the Arbitrators assess forum fees in the total amount of \$1,500.00 (\$100 filing fee + \$800 hearing session fees (2 x \$400) + \$600 pre-hearing fees (2 x \$300)) as follows:

1. Respondents are responsible for and shall pay to the Exchange the sum of \$300.00.
2. Claimant is responsible for the sum of \$1,200.00. Exchange shall retain the non-refundable filing fee in the amount of \$100.00 and the hearing session deposit in the amount of \$400.00 previously submitted by Claimant. Claimant shall pay to the Exchange the sum of \$700.00.

<u>/s/ John B. Kelley</u> John B. Kelley, Chair and Public Arbitrator	<u>11/09/98</u> Date
<u>/s/ Michael Feehan</u> Michael Feehan, Public Arbitrator	<u>11/11/98</u> Date
<u>/s/ Charles W. Palm</u> Charles W. Palm, Industry Arbitrator	<u>11/12/98</u> Date

---

\* Pursuant to CBOE Rule 18.31, all monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction.