

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:
Russell R. Roby v. Salomon Smith Barney, Inc. (Respondent).

Case Number: 99-00131

Hearing Site: Houston, Texas

REPRESENTATION OF PARTIES

Claimant, Russell R. Roby, hereinafter referred to as "Claimant": Monte James, Esq., Davis & Davis, PC, Austin, Texas.

Respondent, Salomon Smith Barney, Inc., hereinafter referred to as "Respondent": Etta Gumbs, Esq., Salomon Smith Barney, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: January 12, 1999
Amended Statement of Claim filed on or about: June 15, 1999
Claimant signed the Uniform Submission Agreement: January 4, 1999
Statement of Answer filed by Respondent on or about: March 29, 1999
Respondent signed the Uniform Submission Agreement: March 31, 1999

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duties; breach of contract; negligence; and conversion. The causes of action relate to the a check in the amount of \$13,617 which was wrongfully deposited into an incorrect account.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following affirmative defenses: the Statement of Claim failed to state a claim upon which relief may be granted; any losses allegedly sustained by Claimant were due in part or in whole to Claimant's failure to adhere to their obligations under the client agreement; Claimant was barred from the recovery by the doctrines of laches, waiver and

estoppel; and Claimant experienced no monetary damage therefore the damage calculation provided to the panel is inaccurate plus neither the facts nor the law support a claim of breach of contract, negligence or conversion.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$351,749
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any:	unspecified

Respondent requested:

Dismissal

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.

AWARD

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

1. Respondent, Salomon Smith Barney, Inc., is liable for and shall pay to Claimant, Russell R. Roby, \$12,750 in compensatory damages;
2. Respondent, Salomon Smith Barney, Inc., is liable for and shall pay to Claimant, Russell R. Roby, \$8,978 in attorneys' fees. In deciding to award attorneys' fees, the Panel considered the pleadings, testimony and evidence as well as the Texas Civil Practice and Remedies Code - Chapter 38, the legal authority provided by the Claimant; and
3. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$200

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is the Respondent, Salomon Smith Barney, Inc.

Member surcharge	= \$1,500
Pre-hearing process fee	= \$600
Hearing process fee	= \$2,500

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$750	= \$750
Pre-hearing conference: July 27, 1999	1 session

One (1) Hearing sessions x \$750	= \$750
Hearing Date: November 16, 1999	1 session

Total Forum Fees	= \$1,500
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1. The Panel has assessed \$750 of the forum fees to Claimant, Russell R. Roby.
2. The Panel has assessed \$750 of the forum fees to Respondent, Salomon Smith Barney, Inc.

Fee Summary

1. Claimant, Russell R. Roby, be and hereby is solely liable for:

Initial Filing Fee	= \$200
Forum Fees	= \$750
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Total Fees	= \$950
<u>Less payments</u>	<u>= \$950</u>
Balance Due NASD Regulation, Inc.	= \$0

2. Respondent, Salomon Smith Barney, Inc., be and hereby is solely liable for:

Member Fees	= \$4,600
Forum Fees	= \$750

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Total Fees	= \$5,350
Less payments	= \$4,600
Balance Due NASD Regulation, Inc.	= \$750

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)



Donald K. Eckhardt, Esq.
Public Arbitrator, Presiding Chair

12/6/99
Signature Date

Robert Dan Sherrill
Public Arbitrator

Signature Date

Robert N. Mackey
Industry Arbitrator

Signature Date

12/8/99
Date of Service (For NASD office use only)

Total Fees	= \$5,350
Less payments	= \$4,600
Balance Due NASD Regulation, Inc.	= \$750

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)

Donald K. Eckhardt, Esq.
Public Arbitrator, Presiding Chair



Robert Dan Sherrill
Public Arbitrator

Signature Date

12/6/99

Signature Date

Robert N. Mackey
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Total Fees	= \$5,350
<u>Less payments</u>	<u>= \$4,600</u>
Balance Due NASD Regulation, Inc.	= \$750

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signature(s)

Donald K. Eckhardt, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Robert Dan Sherrill
Public Arbitrator

Signature Date



Robert N. Mackey
Industry Arbitrator

12-7-99

Signature Date

Date of Service (For NASD office use only)