

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Estelle Breslow

Case No. 99-01026

Names of Respondents

Salomon Smith Barney Inc.
Peter Lane

REPRESENTATION OF PARTIES

For Claimant Estelle Breslow, hereinafter referred to as "Claimant": Jose I. Rojas, Esq. of Broad and Cassell, Miami, Florida.

For Respondent Salomon Smith Barney, Inc. ("Smith Barney"): John Bevelacqua, Esq. of Salomon Smith Barney, New York, New York.

For Respondent Peter Lane ("Lane"): David S. Mandel, Esq. of Mandel and Mixon, LLP, Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: March 4, 1999.

Claimant signed the Uniform Submission Agreement on: March 4, 1999.

Statement of Answer filed by Respondent Smith Barney on: June 30, 1999.

Respondent Smith Barney did not file a Uniform Submission Agreement.

Respondent Lane's Statement of Answer filed on: May 18, 1999.

Respondent Lane signed the Uniform Submission Agreement on: May 18, 1999.

CASE SUMMARY

Claimant alleged fraud and/or negligence in the handling of her account; that improper and imprudent investments were made which were unsuitable in light of Claimant's investment

goals; and, that discretionary trading was conducted in the account which was a non-discretionary account. Claimant also alleged that Respondent Lane procured two personal loans from her in the cumulative amount of \$30,000.00 of which \$28,750.00 in principal remains due and owing, with interest, and which Claimant demands be paid.

Respondent Smith Barney denied the allegations of wrongdoing contained in the Statement of Claim and maintained the following: The investments made by Claimant were entirely suitable and Claimant kept meticulous records of every trade made in her account. Despite the fact that Claimant's account performed very well and generated a gain of more than \$1,000,000.00 over four years, Claimant's daughters convinced her to commence this arbitration. Claimant is unable to articulate which trades are allegedly unsuitable or any misrepresentation made to her. Claimant's contention that she should have made more money than she did is without merit.

Respondent Lane denied the allegations of wrongdoing contained in the Statement of Claim and alleged that when a Smith Barney branch manager called Claimant to inquire about the loans which Claimant made to Lane, Claimant reported that the loans were made with money that had nothing to do with her account and that the loans were a private matter and none of Smith Barney's business. Respondent Lane further maintained that the loans were paid back in full and that the portion of the claim relating to the loans should be summarily dismissed.

RELIEF REQUESTED

Claimant requested damages in the amount of \$1,327,457.00, attorneys' fees, interest, costs and such other and further relief deemed appropriate by the panel.

Respondent Smith Barney requested a dismissal of all claims against it.

Respondent Lane requested that the arbitration panel dismiss the Statement of Claim in its entirety and that an award be entered in his favor, including attorneys' fees and costs, as prevailing party pursuant to Florida Statutes, Section 517.211(6), and for such other and further relief deemed appropriate by the panel.

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.

Respondent Smith Barney did not file with the NASD Regulation, Inc., Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim and appeared at the hearing, is bound by the decision of the arbitration panel on all issues submitted.

During the evidentiary hearing on March 23, 2000, Respondents made an ore tenous Motion for Sanctions (jointly) for alleged discovery violations by Claimant. Following Claimant's objections the panel deliberated and ruled upon the Motion as follows: As part of discovery, Respondents requested "Copies of any profit and loss worksheets or other summary of accounts compiled by Claimant, including, but not limited to expert witnesses" (Request #13). At the hearing held on January 20, 2000, Claimant's expert commenced his testimony and made reference to certain documents which he relied upon in forming his opinion. Respondents objected that these documents were not provided to them by Claimant pursuant to their request. The panel ordered Claimant to provide the requested documents prior to resumption of the hearing on Mach 23, 2000. Claimant provided almost 2000 pages of documents to Respondents in compliance with the panel's directive. Upon consideration of the testimony, the panel concluded that Respondents were required to expend \$15,000.00 in attorneys' fees because of the violation of the discovery requirements by counsel for Claimant. Accordingly, the panel orders that counsel for Claimant, Broad and Cassell, pay the sum of \$7,500.00 to Respondent Smith Barney and \$7,500.00 to Respondent Lane to remedy their discovery violations. [See NASD Notice to Members 99-90 Section VIII (Sanctions)].

AWARD

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

1. Respondents Smith Barney and Lane are found not liable and, therefore, all claims against them are denied.
2. Respondent Lane's requests for attorneys' fees and costs are denied.
3. All other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$250.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00

Hearing process fee = \$4,500.00

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$300.00	= \$300.00
Pre-hearing conference date: December 28, 1999	1 session
Two (2) Pre-hearing sessions with the Panel x \$1,000.00	= \$2,000.00
Pre-hearing conference dates: October 14, 1999	1 session
January 14, 2000	1 session
Twelve (12) Hearing sessions x \$1,000.00	= \$12,000.00
Hearing Dates: January 18, 2000	2 sessions
January 19, 2000	2 sessions
January 20, 2000	2 sessions
January 21, 2000	2 sessions
March 23, 2000	2 sessions
March 24, 2000	2 sessions
Total Forum Fees	= \$14,300.00

The Panel has assessed the total forum fees of \$14,300.00 to Claimant.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= <u>\$14,300.00</u>
Total Fees	= \$14,550.00
Less payments	= <u>\$ 1,500.00</u>
Balance Due NASD Regulation, Inc.	= \$13,050.00

Respondent Smith Barney be and hereby is solely liable for:

Member Fees	= \$7,600.00
Total Fees	= \$7,600.00
Less payments	= <u>\$7,600.00</u>
Balance Due NASD Regulation, Inc.	= \$ 0.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

_____/s/_____
Howard I. Wilgoren, Esq.
(Public Chairperson)

Signature Date

_____/s/_____
David E. Mowry
(Industry Panelist)

Signature Date

_____/s/_____
William E. Schneider
(Public Panelist)

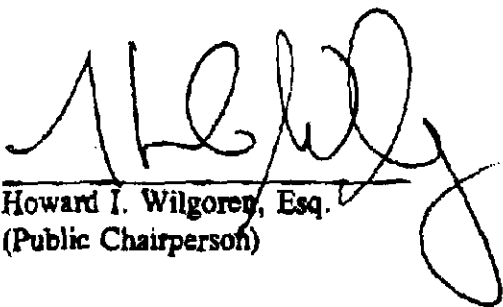
Signature Date

May 5, 2000

Date of Service (For NASD office use only)

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Concurring Arbitrators' Signatures



Howard I. Wilgoren, Esq.
(Public Chairperson)

5-4-00
Signature Date

David E. Mowry
(Public Panelist)

Signature Date

William E. Schneider
(Industry Panelist)

Signature Date

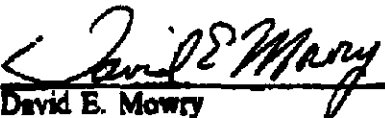
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