

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

John M. Yeaton v. Salomon Smith Barney Inc. and Stephen Fox

Case Number: 99-2725

Hearing Site: Southfield, Michigan

REPRESENTATION OF PARTIES

Claimant, John M. Yeaton ("Yeaton"), hereinafter referred to as "Claimant": John F. Mills, Esq., Williams, Williams, Ruby & Plunkett, PC, Birmingham, Michigan.

Respondents, Salomon Smith Barney Inc. ("SSB") and Stephen Fox ("Fox"), hereinafter referred to as "Respondents": William A. Hohaus, Esq., Salomon Smith Barney, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: June 15, 1999

Claimant signed the Uniform Submission Agreement: June 8, 1999

Claimant's Motion to Bar Answer, Defenses, Counterclaims or Other Responsive Pleadings filed on or about: September 17, 1999

Respondents' Answer to Claimant's Motion to Bar Answer, Defenses, Counterclaims or Other Responsive Pleadings filed on or about: October 13, 1999

Claimant's Reply to Respondents' Answer to Claimant's Motion to Bar Answer, Defenses, Counterclaims or Other Responsive Pleadings filed on or about October 15, 2000

Statement of Answer filed by Respondents, on or about: September 24, 1999

CASE SUMMARY

Claimant asserted the following causes of action: breach of contractual duty to execute orders; negligence; breach of fiduciary duty. The causes of action relate to the alleged failure of Respondents to liquidate the assets in Claimant's IRA account prior to transfer.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Respondents abided by standard industry practice throughout the course of events; once a properly executed transfer form is submitted by the receiving firm, there is nothing a transferee firm can do with respect to the investments then in transit; and since the account status was "frozen" by Bear Stearns' submission of transfer forms, respondents cannot be held liable for any further declines.

RELIEF REQUESTED

Claimant requested out-of-pocket losses in the amount of \$116,779.00, plus interest, costs, and attorneys fees.

Respondents requested that the Statement of Claim be dismissed and that Respondents be awarded their costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Salomon Smith Barney Inc. and Stephen Fox did not file with the NASD Dispute Resolution, Inc., properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim and appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

The Panel denied Claimant's Motion to Bar Answer, Defenses, Counterclaims or Other Responsive Pleadings.

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.) Respondents, Salomon Smith Barney, Inc. and Stephen Fox, are jointly and severally liable for and shall pay to Claimant, John M. Yeaton, the sum of \$51,633.00 in compensatory damages;
- 2.) Respondents, Salomon Smith Barney, Inc. and Stephen Fox, are jointly and severally liable for and shall pay to Claimant, John M. Yeaton, the sum of \$22,000.00 in attorneys fees;
- 3.) Respondents, Salomon Smith Barney, Inc. and Stephen Fox, are jointly and severally liable for and shall pay to Claimant, John M. Yeaton, the sum of \$300.00 as reimbursement for Filing Fees retained by NASD;
- 4.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and

- 5.) That any relief not specifically enumerated is hereby denied with prejudice.

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 = \$300.00

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 = \$1,500.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

July 20-21, 2000, adjournment by Salomon Smith Barney Inc. = \$1,125.00 (waived)

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 \$1,125.00 = \$1,125.00

Pre-hearing conference: January 21, 2000 1 session

Five (5) Hearing sessions x \$1,125.00 = \$5,625.00

Hearing Date: October 11, 2000 2 sessions
October 12, 2000 2 sessions
November 20, 2000 1 session

Total Forum Fees = \$6,750.00

The Panel has assessed \$6,750.00 of the forum fees jointly and severally to Salomon Smith Barney Inc., and Stephen Fox.

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Fee Summary

Claimant, John M. Yeaton, be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Balance Refunded by NASD Dispute Resolution, Inc.</u>	= \$ 1,125.00

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

<u>Member Fees</u>	= \$ 4,600.00
<u>Less payments</u>	= \$ 4,600.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 0.00

Respondents, Salomon Smith Barney Inc., and Stephen Fox, be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 6,750.00
<u>Total Fees</u>	= \$ 6,750.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$ 6,750.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

Stuart Sinai, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Francis C. Flood, Esq.
Public Arbitrator

Signature Date


Robert A. Vogler
Industry Arbitrator

12-12-00
Signature Date

Date of Service (For NASD office use only)

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fax to Pelican Box, Esq

312-236-9239

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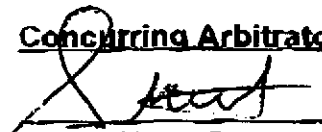

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Public Arbitrator, Presiding Chair

12/13/00
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