

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

**Robert Considine v. Salomon Smith Barney and Michael Mooradian**

Case Number: 99-3993

Hearing Site: Southfield, Michigan

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**REPRESENTATION OF PARTIES**

Claimant, Robert Considine, hereinafter referred to as "Claimant": David E. Sims, Esq., Finkel, Whitefield, Selik, Raymond, Ferrara & Feldman, P.C. Farmington Hills, Michigan.

Respondents, Salomon Smith Barney ("SSB") and Michael Mooradian ("Mooradian"), hereinafter collectively referred to as "Respondents": William A. Hohausser, Esq., Salomon, Smith Barney, Inc., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on or about: August 26, 1999

Claimant signed the Uniform Submission Agreement: August 20, 1999

Statement of Answer filed by Respondents on or about: November 30, 1999

Respondent, SSB, signed the Uniform Submission Agreement: November 30, 1999, by William A. Hohausser, Senior Vice President and Assistant General Counsel

**CASE SUMMARY**

Claimant asserted the following causes of action: Breach of fiduciary duty; Failure to Execute Order; Breach of contract; and Negligence. The causes of action relate to SSB's alleged failure to transfer liquidated IRA proceeds to Venture Annuities in a timely manner, including an investment in a Guardian National Acceptance Corp. (the "Guardian Note").

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted that, at all times, Respondents acted in good faith and in the best interests of Claimant and that Respondents fully explained all policies with regard to the Guardian Note investment.

### **RELIEF REQUESTED**

Claimant requested \$127,091.70 as out-of-pocket losses, plus interest at 12%, costs, actual attorney fees, punitive or treble damages, and additional damages as determined by the Panel.

Respondents requested that the Statement of Claim be dismissed in its entirety and that Respondents be awarded their costs. At hearing, Respondent Mooradian requested expungement of all references to this matter from his CRD record.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Michael Morradian did not file with the NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

### **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.) Claimant's claims are, each and all, denied with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Michael Mooradian's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Mooradian (CRD #1065271) must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) That any relief not specifically enumerated, including punitive and treble damages is hereby denied with prejudice.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution, 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 = \$3,100.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

November 7-9, 2000, adjournment by Salomon Smith Barney, Inc. = \$ 1,125.00

November 20-22, 2000, adjournment by Robert Considine = \$ 1,125.00

December 6-8, 2000, adjournment by Salomon Smith Barney, Inc. = \$ 1,000.00

#### **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 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 a single arbitrator x \$450.00 = \$ 450.00

Pre-hearing conference: September 11, 2000 1 session

One (1) Pre-hearing session with Panel x \$1,125.00 = \$1,125.00

Pre-hearing conference: April 18, 2000 1 session

Four (4) Hearing sessions x \$xxx = \$4,500.00

Hearing Dates: May 16, 2001 2 sessions

May 17, 2001 2 sessions

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Total Forum Fees = \$6,075.00

The Panel has assessed \$3,037.50 of the forum fees to Robert Considine

The Panel has assessed \$3,037.50 of the forum fees to Salomon Smith Barney, Inc.

NASD Dispute Resolution, Inc.  
 Arbitration # 98-3993  
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### Fee Summary

Claimant, Robert Considine, be and hereby is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,125.00
Forum Fees	= \$ 3,037.50
Total Fees	= \$ 4,462.50
Less payments	= \$ 2,550.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 1,912.50

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

Member Fees	= \$ 4,600.00
Adjournment Fee	= \$ 2,125.00
Forum Fees	= \$ 3,037.50
Total Fees	= \$ 9,762.50
Less payments	= \$ 2,100.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 7,662.50

All balances are due to NASD Dispute Resolution, Inc.

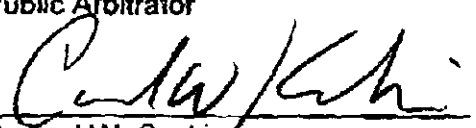
### Concurring Arbitrators' Signatures

Burton L. Ansell, Esq.  
 Public Arbitrator, Presiding Chair

Signature Date

Harvey Frank  
 Public Arbitrator

Signature Date

  
 Conrad W. Coski  
 Industry Arbitrator

  
 Signature Date

Date of Service (For NASD office use only)

08/05/01 TUE 12:20 FAX

NASD Dispute Resolution, Inc.  
 Arbitration # 99-3993  
 Award Page 4 of 4

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6/5/01  
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 Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

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NASD REGULATION

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NASD Dispute Resolution, Inc.  
Arbitration # 98-3863  
Award Page 4 of 4

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Claimant, Robert Considine, be and hereby is solely liable for:

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Public Arbitrator, Presiding Chair

06/05/01  
Signature Date

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Harvey Frank  
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