

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Alan B. Flandreau, Trustee f/b/o Cox Heating & Air Conditioning, Inc. Profit Sharing Trust, UTD 5/15/70 and Alan B. Flandreau, Trustee f/b/o Cox Heating & Air Conditioning, Inc. Pension Plan & Trust, UTD 5/5/70

Case No. 99-00107

Names of Respondents

Salomon Smith Barney Inc.
Harvey P. Rose

REPRESENTATION OF PARTIES

For Claimants: Jeffrey P. Coleman, P.A., Clearwater, FL.

For Respondents: William A. Hohausser, Esq., Senior Vice President and Associate General Counsel, Salomon Smith Barney Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about January 11, 1999.

Claimants signed the Uniform Submission Agreement on February 23, 1999.

Joint Statement of Answer filed by Respondents on or about June 18, 1999.

Respondent Salomon Smith Barney Inc. ("SSB") signed the Uniform Submission Agreement on June 17, 1999.

Respondent Harvey P. Rose ("Rose") did not file an executed Uniform Submission Agreement (see "Other Issues").

CASE SUMMARY

Claimants alleged the following: Claimants decided to move their accounts from SSB to another brokerage firm. On or about September 14, 1998, Alan B. Flandreau, Trustee of the Claimants wrote a letter to SSB requesting that all of the accounts be liquidated. Upon receipt of this correspondence, Respondent Rose liquidated two of the accounts. Respondent Rose did not liquidate the remaining two accounts until October 7, 1998. Due to Respondent Rose's failure to timely liquidate the remaining two accounts, Claimants suffered losses of approximately \$88,000.00.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and alleged the following: Respondents acted in a professional and ethical manner and in accordance with relevant exchange and government regulations. No dereliction of duty occurred, instead a heightened standard of care was given. Any losses occurring in the accounts were sustained due to external market forces not in any way attributable to Respondents' action or inaction.

RELIEF REQUESTED

Claimants requested compensatory damages of \$88,504.31, punitive damages, costs, reimbursement of the filing fee previously paid by Claimants, and such other relief as the Arbitration Panel deemed just and proper.

Respondents requested that the Statement of Claim be dismissed in its entirety, that Respondents be awarded their costs, and that all references to the above captioned arbitration be expunged from Respondent Rose's registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

During the final hearing, Claimants orally amended the Statement of Claim to withdraw the allegation that Respondents refused to liquidate two of Claimants' accounts so as to collect commissions for the quarter ending September 30, 1998.

During the final hearing, Claimants made an ore tenus motion for sanctions and an ore tenus motion to strike. Respondents opposed the motions. At the conclusion of argument by counsel, the Panel denied the motions.

During the final hearing, Respondents made an ore tenus motion for sanctions. Claimants opposed the motion. At the conclusion of argument by counsel, the Panel denied the motion.

Respondent Rose 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, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

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:

Respondent SSB is liable and shall pay to the Claimants compensatory damages in the sum of \$54,655.00 plus pre-judgment interest of \$8,206.00.

Respondent Rose is liable and shall pay to the Claimants compensatory damages in the sum of \$13,664.00 plus pre-judgment interest of \$2,051.00.

Respondent SSB is liable and shall pay to the Claimants punitive damages in the sum of \$204,957.00 pursuant to the case of Mastrobuono v. Shearson Lehman Hutton, 514 U.S. 52 (1995).

Pursuant to the Florida Securities Investor Protection Act, the prevailing parties' (Claimants') attorneys' fees should be awarded by a court of competent jurisdiction. Such court action should be against SSB only. Any expert witness fees and expenses should be included as part of the court action seeking attorneys' fees.

Respondent SSB is liable and shall pay to the Claimants the sum of \$150.00 representing reimbursement of the claim filing fee previously paid to NASD Regulation, Inc. by the Claimants.

Respondents' request that all references to the above captioned arbitration be expunged from Respondent Rose's registration records maintained by CRD is denied.

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 = \$ 150.00

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, SSB, is a party.

Member surcharge = \$1000.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$1500.00

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:

Three (3) Pre-hearing sessions with a single arbitrator x \$300.00 = \$ 900.00
Pre-hearing conferences: February 15, 2000 1 session
February 22, 2000 1 session
March 14, 2000 1 session

One (1) Pre-hearing session with Panel x \$500.00 = \$ 500.00
Pre-hearing conference: October 28, 1999 1 session

Four (4) Hearing sessions x \$500.00 = \$2000.00
Hearing Dates: March 22, 2000 2 sessions
March 23, 2000 2 sessions

Total Forum Fees = \$3400.00

The Panel has assessed the total forum fees of \$3400.00 to SSB.

Fee Summary

Claimants be and hereby are jointly and severally liable for:

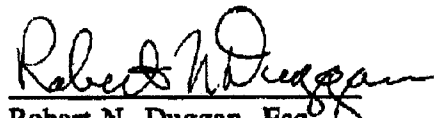
Initial Filing Fee = \$ 150.00
Total Fees = \$ 150.00
Less payments = \$ 150.00
Balance Due NASD Regulation, Inc. = \$ 0.00

Respondent SSB be and hereby is solely liable for:

Member Fees = \$3100.00
Forum Fees = \$3400.00
Total Fees = \$6500.00
Less payments = \$3100.00
Balance Due NASD Regulation, Inc. = \$3400.00

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

Concurring Arbitrators' Signatures


Robert N. Duggan, Esq.
Public Arbitrator, Presiding Chair

April 28, 2000
Signature Date

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Concurring Arbitrators' Signatures

/s/

Robert N. Duggan, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/

Sherman S. Dantzler
Public Arbitrator

Signature Date

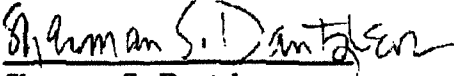
/s/

Gene G. Stern
Industry Arbitrator

Signature Date

May 4, 2000

Date of Service (For NASD office use only)


Sherman S. Dantzler
Public Arbitrator

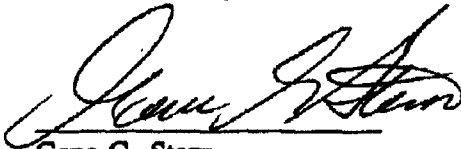
29 APR 00
Signature Date

Gene G. Stern
Industry Arbitrator

Signature Date

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Sherman S. Dantzler
Public Arbitrator



Gene G. Stern
Industry Arbitrator

Signature Date



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