

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)
)
EDITH SKLAR, SOL SKLAR, CELESTE)
WEITZ and DELILAH NEUMAN,)
)
) Claimants,)
) Case #87-01787
vs.) Award
)
SHEARSON LEHMAN BROTHERS, INC.)
and HARLAN M. HERMAN,)
)
) Respondents.)
)

Heard before the members of the Arbitration Panel:

Arieh Leo Douer
Daniel Goodrum
Terrence W. Grant

CASE SUMMARY

This claim was filed with the NASD, Inc. on September 21, 1987. The hearing was conducted in Fort Lauderdale, Florida on August 28, and October 4, 1989 with a total of four (4) sessions.

Claimants Edith Sklar, Sol Sklar ("Sklars"), Celeste Weitz ("Weitz") and Delilah Neuman ("Neuman") alleged that Respondents Shearson Lehman Brothers, Inc. ("Shearson") and Harlan M. Herman ("Herman"); induced Claimants to purchase securities that were unsuitable; misrepresented material facts in the solicitation of those purchases and omitted to state material facts; breached their fiduciary duties to Claimants; breached their contract; and that Shearson failed to supervise Herman.

Respondents alleged that Claimants failed to file their Claim within the six years provided by the NASD Code; denied all wrongdoing; alleged that Damson's financial difficulties were not foreseeable; that Claimants failed to mitigate their damages; and, that Respondents fully disclosed the risks.

RELIEF REQUESTED

Claimants requested rescission in the amount of \$84,572.61 upon tender of securities to Respondents, attorney's fees, costs, punitive damages and other relief. Respondents requested dismissal of claim, costs, and denial of punitive damages.

AWARD

On August 28, and October 4, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants Sklars on September 8, 1987, Weitz on September 14, 1987, Neuman on September 12, 1987, and by Respondents Shearson on June 16, 1988 and Herman on August 28, 1989. The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.
2. Respondents, Shearson and Herman, shall be liable, jointly and severally, and shall pay to Claimants the amount of Twenty Two Thousand and 00/100 (\$22,000.00) Dollars.
3. Claimants' requests for attorney's fees and punitive damages are denied in all respects.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of Two Thousand and 00/100 (\$2,000.00) Dollars (four sessions x \$500.00). Claimants are assessed forum fees in the amount of One Thousand and 00/100 (\$1,000.00) Dollars and Respondents are assessed forum fees in the amount of One Thousand and 00/100 (\$1,000.00) Dollars. The National Association of Securities Dealers, Inc. shall retain the Five Hundred and 00/100 (\$500.00) Dollar filing fee previously deposited by the Claimants with the NASD, Inc. in partial satisfaction of their assessed fees.
5. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

Arish Leo Douer, Daniel Goodrum and Terrence W. Grant

Dated this 11th day of October 1989.