

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Kenneth B. Hutchinson

Claimant

vs.

Shearson Lehman Hutton, Inc.

Respondent

AWARD

CASE NO. 89-00326

SUMMARY OF ISSUES

This case was filed on February 6, 1989. Claimant alleged that Respondent placed him in unsuitable investments, namely certain common stocks, real estate and energy limited partnerships, and various put and call options. Respondent alleged: 1) that the claim should be time barred pursuant to Section 15 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure; 2) that the investments were not unsuitable; 3) that the accounts were specifically directed and approved by Claimant and any losses that resulted are losses for which Claimant is responsible because Claimant assumed the investment and market risks that accompany all investments; and 4) that Claimant was provided with disclosure documents and signed Subscription Agreements for each limited partnership.

DAMAGES AND RELIEF REQUESTED

Claimant requested an order that: 1) Respondent make full restitution of the \$29,960.00 in depleted assets, plus interest; and 2) Respondent buy back all of its sponsored limited partnerships in Claimant's IRA account at their face value of \$45,500.00. Respondent requested that the claim be dismissed with prejudice.

DAMAGES AND RELIEF AWARDED

On March 9, 1990 in Salt Lake City, Utah, the undersigned arbitrators heard the controversy in two sessions between the parties as set forth in submissions to arbitration signed by Claimant on February 2, 1989 and by Respondent on June 5, 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. Respondent is liable for and shall reimburse the Hutchinson IRA account the sum of Sixteen Thousand, Nine Hundred Thirty-One Dollars and Zero Cents (\$16,931.00).

2. Claimant shall have the right, but not the obligation, to sell all of the five limited partnership interests (Insured Income Properties 1988, Participating Income Properties 1986, Uniprop II Limited Partnership, Hutton Indian Wells Energy 83 Income Fund, and Hutton Conam Realty 4 Limited Partnership) as a single block to or through Respondent Shearson Lehman Hutton, Inc. at any time within twenty (20) days of the date of this award for a single lump-sum payment of \$28,500.00, payable on the regular settlement date following the receipt of the order from Mr. Hutchinson on behalf of the Hutchinson IRA account to sell such securities as a block.

3. The parties shall each bear their respective costs including attorneys' fees.

4. In accordance with Section 43 of the NASD Code of Arbitration Procedure:

- a. The NASD shall retain the \$500.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators; and
- b. Respondent is assessed forum fees in the amount of \$500.00, to be paid directly to the National Association of Securities Dealers, Inc.

PRESIDING ARBITRATORS

DATE SERVED: 05/30/90

James R. Kruse

D. Scott Hays
D. Scott Hays

George John Potter