

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Bernard and Inez I. Sloane

Claimants

and

E. F. Hutton & Co., Inc;  
Bert Struthers and George L. Holley

Respondents

A W A R D  
88-00401

SUMMARY OF CASE

In a claim filed with the NASD on February 8, 1988, Claimants Bernard and Inez Sloane ("the Sloanes") alleged that Respondents E.F. Hutton & Co., Inc. ("Hutton"), Bert Struthers ("Struthers") and George Holley ("Holley") engaged in unsuitable transactions in options for the Sloanes' securities account maintained at Hutton. The Sloanes alleged that trading in options was contrary to their conservative investment objectives. Additionally, the Sloanes alleged that many of the transactions in their account were unauthorized and that the trading activity was excessive.

Hutton, Struthers and Holley maintained that the losses in the Sloanes' account were the result of a dramatic and unprecedented decline in the securities markets on and about October 19, 1987 and not from the conduct of any of the Respondents. Respondents also alleged that Sloane was a sophisticated, wealthy investor and was fully aware of the risks inherent in the investment strategies which were followed in his account. Sloane was also allegedly fully aware of and allegedly authorized all transactions in his account.

RELIEF REQUESTED

Sloane requested \$150,000 in compensatory damages, punitive damages at least equal to any amount of compensatory damages, reasonable attorneys' fees and interest on damages at the average money market rates from the date of loss until paid. Respondents requested dismissal of the claim. In opening

Served: 8-16-89

Statement, Hutton's counsel also requested an award of attorneys' fees and costs assessed against the Sloanes. This was not objected to by Claimants' counsel and the panel, therefore, considered this request for relief for purposes of the arbitration award.

#### AWARD

On Wednesday, July 12, 1989 and Thursday, July 13, 1989 in Scottsdale, Arizona in a hearing lasting 4 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on January 29, 1988 by Claimants Bernard and Inez Sloane and on April 26, 1988 by Stephen J. Keating, Vice President on behalf of Respondent Shearson Lehman Hutton, Inc. Respondents Bert Struthers and George Holley did not execute a submission to arbitration but answered the claim, appeared at the hearing and testified. Additionally, these Respondents are obligated to arbitrate the instant dispute pursuant to Section 12 of the NASD Code of Arbitration Procedure and the NASD by-laws. Accordingly, Respondents Struthers and Holley are bound by the panel's final determination on all issues submitted.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The Sloanes' claim against Struthers and Holley shall be and is hereby dismissed in its entirety;
2. Hutton is liable for and shall pay to the Sloanes, jointly, the sum of Ten Thousand Dollars and No Cents (\$10,000);
3. The claim for punitive damages and interest shall be and is hereby dismissed in its entirety;
4. Pursuant to Section 30(b) of the NASD Code of Arbitration Procedure the \$100 previously deposited with the NASD by Hutton to receive a postponement of a previously scheduled hearing date in this matter is retained by the NASD;
5. The parties shall each bear their respective costs and attorneys' fees incurred in this matter; and

6. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees the \$750 filing fee previously deposited with the NASD by the Sloanes and Hutton is assessed and shall pay to the NASD, as additional forum fees, the sum of \$2,250.

• Panel Members Concurring

Dated: August 5, 1989

/S/ Peter Kay  
Presiding Chairman

Dated: August 9, 1989

/S/ Robert C. Hubbard

Dated: August 7, 1989

/S/ George E. Hartz, Jr.