

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

|  |            |                             |
|--|------------|-----------------------------|
| In The Matter of The Arbitration Between |            |                             |
| Cal Clegg                                | Claimant   | Award<br><br>NASD #88-00895 |
| vs.                                      |            |                             |
| Shearson Lehman, Hutton, Inc.            | Respondent |                             |

SUMMARY OF ISSUES

Claimant Cal Clegg filed this action on March 18, 1988 against Shearson Lehman Hutton, Inc. and alleged that his investment of \$20,000.00 in two limited partnerships was unsuitable given his stated conservative investment objectives, and that Respondent misrepresented the risk involved prior to his purchase. In November 1979, Claimant invested \$8,000.00 in the Petro Lewis Limited Partnership and \$12,000.00 in Consolidated Capital Properties II, a limited partnership. Claimant alleged that his account executive advised him prior to purchase that these investments were suitable for long-term growth and preservation of capital and that he was reassured by the branch manager in April 1984 that these were sound long-term investments. Claimant further alleged that the Respondent failed to reasonably investigate the limited partnerships in issue resulting in the recommendation of unsuitable and speculative investments.

Respondent Shearson Lehman Hutton, Inc. denied the allegations and maintained that Claimant was fully informed of the pertinent details about the investments, and was provided with a prospectus on each limited partnership as required by law. Respondent maintained that the branch manager did not guarantee future gains for either investment in 1984 and did not advise Claimant to remain in either investment. Additionally, Respondent maintained that Claimant authorized the purchase of both investments and directed all investment activity in his account, and that Claimant always had the ability to see his interests in both investments and the alleged damages are due to Claimant's own inactivity in waiting this many years to act. Respondent alleged the affirmative defenses of statutes of limitation, waiver, estoppel, laches, and ratification.

---

DAMAGES AND RELIEF REQUESTED

Claimant requested damages in the amount of \$8,429.57, as amended at the hearing and in the post-hearing submission he filed in this matter. Respondent requested dismissal of the claims.

DAMAGES AND RELIEF AWARDED

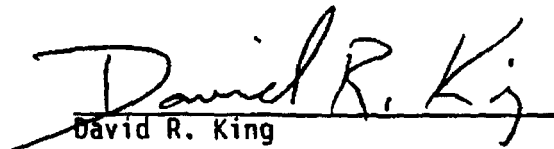
On May 5, 1989 in a single-session hearing held in Salt Lake City, Utah, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Cal Clegg on March 14, 1988 and by Respondent Shearson Lehman Hutton, Inc. on May 24, 1988. The arbitration panel, having considered the pleadings, the testimony, the evidence presented at the hearing and the post-hearing submissions filed on behalf of the parties, has determined in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim is dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.
3. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure, the NASD shall refund the \$200.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

ARBITRATOR CONCURRING

DATE SERVED: 08/24/89

  
David R. King