

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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| In the Matter of the Arbitration Between | | } | AWARD |
| Jeff C. Pokrajac | Claimant | | |
| vs. | | | |
| Shearson Lehman Hutton Inc., Dennis V. Todaro, and Gerald Jones | Respondent(s) | | |
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| Shearson Lehman Hutton, Inc. | | } | CASE NO. 88-00997 |
| | Counter-Claimant | | |
| vs. | | | |
| Jeff C. Pokrajac | | | |
| | Counter-Respondent | | |

SUMMARY OF ISSUES

Claimant Jeff C. Pokrajac filed this claim on March 28, 1988 against Shearson Lehman Hutton Inc., Account Executive Dennis V. Todaro, and Branch Manager Gerald Jones. On October 15 and 16, 1987 Claimant purchased, on margin, two contracts for S & P Index Futures at a limit order of 304.00 and 293.00 respectively. On October 19, 1987 market fluctuations resulted in substantial losses in Claimant's account and a margin call was generated. Claimant was unable to provide additional funds sufficient to cover the margin calls, and subsequently his S & P Index Futures and the remaining securities in his account were liquidated to satisfy the margin calls, resulting in an unsecured debit balance.

Claimant alleged that the recommendations made by Todaro were inconsistent with Claimant's stated investment objectives and his financial position, and that Respondents failed to provide him with a Risk-Disclosure Statement in violation of CFTC Rule 155.

Respondents denied the allegations and maintained that Claimant was a sophisticated investor and that the orders were unsolicited. Respondents further maintained that any losses Claimant incurred resulted solely from his own investment decisions, coupled with adverse market movement rather than any misconduct of Respondents. Respondent Shearson Lehman Hutton, Inc. filed a counterclaim for recovery of the unsecured debit balance in Claimant's account.

Claimant denied any liability alleged in the counterclaim and maintained the debit balance was proximately caused by Respondent's breach of fiduciary duty.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages, as amended at the hearing, in the amount of \$42,800.00 representing the value of the securities liquidated and cash deposited, punitive damages, interest on all sums awarded, costs and attorneys' fees, and dismissal of the counterclaim. Respondents requested dismissal of the claim, damages in the amount of \$18,000.00 representing the unsecured debit balance, interest, costs and attorneys' fees.

DAMAGES AND RELIEF AWARDED

On July 27, 1989 in a double session hearing held in Los Angeles, California, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on March 2, 1988 and by Respondents Shearson Lehman Hutton, Inc. on August 5, 1988, Dennis V. Todaro on August 3, 1988, and by Gerald Jones on July 27, 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. Claimant Jeff C. Pokrajac is hereby awarded the sum of Three Thousand Dollars and No Cents (\$3000.00) assessed jointly and severally against Respondents Shearson Lehman Hutton, Inc. and Dennis V. Todaro.
2. All claims against Gerald Jones are hereby dismissed.
3. The counterclaim is hereby dismissed.
4. The parties shall each bear their respective costs including attorneys' fees.
5. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimant.
6. Pursuant to Section 43 of the NASD Code of Arbitration Procedure, Respondent Shearson Lehman Hutton, Inc. is hereby assessed the sum of \$500.00 representing forum fees payable to the NASD directly.

OTHER ISSUES

Not applicable.

ARBITRATORS CONCURRING

DATE SERVED: 08/17/89

Dale P. Hurd

Lionel S. Heller

Anthony P. George