

In the Matter of the Arbitration Between  
MALCOLM T. WEBRE AND BETTY ANN WEBRE  
Claimants  
and  
SHEARSON LEHMAN HUTTON, INC., successor  
to E. F. HUTTON AND COMPANY, INC.,  
ROBERT COCKBURN AND JIM FEARNOW  
Respondents

CASE NO. 88-01308

Malcolm T. Webre and Betty Ann Webre ("Claimants") alleged as follows:

- a. made misrepresentations and omissions of material fact to the Claimants;
- b. made unauthorized transactions in the Claimants' account;
- c. churned the Claimants' account; and
- d. purchased unsuitable securities for the Claimants.

3. Jim Fearnow and E. F. Hutton failed to properly supervise Mr. Cockburn.

Respondents denied all of the claims of the Claimant and further alleged that:

1. Claimants' claims are barred by the doctrines of waiver and estoppel;

2. Texas Deceptive Trade Practices Act does not apply to securities transactions;

3. Punitive damages are not allowed under New York law, the 14th Amendment of the United States Constitution, and under Article I of the Texas Constitution; and

4. Attorneys fees are not recoverable in arbitration under Section 7513 of the New York Civil Practice and Remedies Code.

#### RELIEF REQUESTED

Claimants requested damages in the amount of \$25,287.02, pre and post-judgment interest, exemplary damages, treble damages, and costs and attorneys' fees in the amount of \$14,050.00. Respondents requested that the claims be dismissed.

#### AWARD

On April 25, 1988 the NASD received the Claimants Statement of Claim. On January 17, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on April 23, 1988 by Claimants, on August 4, 1988 by William A. Holhauser on behalf of Respondent Shearson Lehman Hutton, Inc. and on August 19, 1988 by Respondent Robert Cockburn. The hearing was held in three sessions in Houston, Texas.

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 Respondents are jointly and severally liable for and shall pay to the Claimants \$25,287.02 for actual damages and \$14,050.00 for attorneys fees and costs.

( 2. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund as forum fees, the \$400.00 filing fee previously deposited with the NASD by the Claimant and the Respondents shall pay to the NASD \$1,200.00 as forum fees.

By the Panel

Dated: 4-3-90 /S/ Raymond L. Britton, Esq.  
Presiding Chair

Dated: 3-9-90 /S/ Cynthia J. Thomson, Esq.

Dated: 3-12-90 /S/ Morris Rubin

Date Served: 4-3-90