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NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

FBMC Financial Corp., dba  
First Bankers Mortgage Co.

Claimant

vs.

E.F. Hutton Mortgage Corp.  
and Shearson Lehman Hutton

Respondents

AWARD

CASE #88-01359

SUMMARY OF ISSUES

This case was filed on April 28, 1988. Claimants alleged that Claimant and Respondents entered into an agreement whereby Respondents agreed to purchase \$15 million in loans from Claimant and that Respondents refused to perform under the agreement and to purchase any of the loans. Claimant alleged that as a result of Respondents' actions and Claimant's reliance on Hutton's agreement to purchase, Claimant turned down opportunities to sell the loans to other parties and incurred losses including negative interest. Respondents alleged that the parties were unable to agree mutually on various terms of the transaction, that there was no meeting of the minds and no contact. Respondents took the position that there was no obligation on their part to purchase the loans. Respondents asserted ten affirmative defenses. Respondents asserted two counterclaims. Both counterclaims were withdrawn at the hearing.

DAMAGES AND RELIEF REQUESTED

Claimant alleged losses of approximately \$204,000 as of March 23, 1988 plus additional losses, not yet calculated, in excess of \$20,000. Claimant also claimed interest at the legal rate from the dates that expenses and losses were incurred up to the time of the award in this arbitration, plus other costs incurred in prosecuting this arbitration.

DAMAGES AND RELIEF AWARDED

On January 25, 1990 in San Diego, California the undersigned arbitrators heard the controversy in five sessions between the parties as set forth in submissions to arbitration signed by Claimant on April 22, 1988, by E.F. Hutton Mortgage Corporation on September 22, 1988 and by Respondent Shearson Lehman Hutton, Inc. on September 22, 1988. 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:

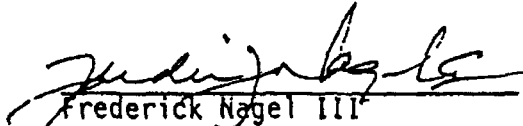
1. Respondents are liable for and shall pay to Claimant the sum of One Hundred Eighty One Thousand One Hundred Twenty Five Dollars and No Cents (\$181,125.00), inclusive of interest.

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: a) the NASD shall retain the \$750.00 filing fee previously deposited by the Claimant. Respondents are liable for reimbursing Claimant said \$750.00 filing fee; b) Respondents are assessed forum fees in the amount of \$3,000, to be paid directly to the National Association of Securities Dealers.

ARBITRATORS CONCURRING

DATE SERVED: February 27, 1990

  
Frederick Nagel III

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James Gormsen

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Lewis Brown