

NATIONAL ASSOCIATION OF SECURITIES DEALERS

IN THE MATTER OF THE ARBITRATION BETWEEN

Herman Weiser

Claimant

vs.

Shearson Lehman Hutton, Inc.
and Natalie Perlman

Respondents

Case #88-01684

Case Summary

Claimant Herman Weiser alleged Respondents Shearson Lehman Hutton, Inc. and Natalie Perlman breached the fiduciary duty owed to the Claimant by investing his account substantially in investments unsuitable to his investment objectives and financial situation. Claimant further alleged Respondents caused the Claimant to engage in an excessive number of transactions exhibiting reckless disregard for the interests of the Claimant. This claim was withdrawn by Claimant at the first hearing. Respondents maintain the Claimant is sophisticated in all business and investment matters and fully understood the risks incident to every transaction. Respondents further maintain that each and every transaction effectuated within the account was authorized and consented to by the Claimant prior to its execution. Respondents asserted a counterclaim against the Claimant based on his refusal to pay for his margin liquidation obligation pursuant to the Client Agreement signed by the Claimant. Claimant maintained the Client Agreement is unconscionable and is a contract of adhesion and therefore unenforceable.

Relief Requested

Claimant Herman Weiser requested damages of \$112,809.00 together with costs and disbursements and a dismissal of the Counterclaim. Respondent requested dismissal of the claim and damages on the Counterclaim in the sum of \$2,809.85 plus interest from December 31, 1987.


Award

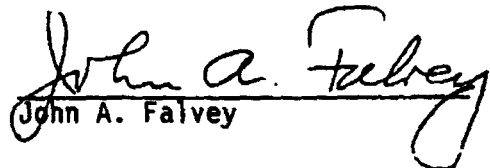
On July 12, 1989 and July 13, 1989 said dates representing 4 hearing sessions the undersigned arbitrators heard the controversy between the parties at the offices of the National Association of Securities Dealers, Inc. located in New York City, NY as set forth in submissions to arbitration signed by Claimant Herman Weiser on May 17, 1988 and by Respondents Shearson Lehman Hutton, Inc. and Natalie Perlman on July 13, 1989. The Statement of Claim was filed with the National Association of Securities Dealers, Inc. on May 23, 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. The claim by the Claimant Herman Weiser be and hereby is dismissed in all respects.
2. The Claimant Herman Weiser be and hereby is liable on the counter-claim and shall pay to the Respondent Shearson Lehman Hutton, Inc. the sum of Two Thousand Eight Hundred Nine Dollars and Eighty Five Cents (\$2,809.85).
3. The parties shall each bear their respective costs including attorneys' fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant. In addition, the Claimant Herman Weiser be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of Seven Hundred Fifty Dollars and No Cents (\$750.00) to represent forum fees and the Respondents Shearson Lehman Hutton, Inc. and Natalie Perlman be and hereby are liable jointly and severally and shall pay to the National Association of Securities Dealers, Inc. the sum of One Thousand Five Hundred Dollars and No Cents (\$1,500.00) to represent forum fees.

Arbitrators Concurring


Richard W. Baldwin, Esq.


Allen Kilik


John A. Falvey

DATED: July 14th, 1989