

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

T. Jack Bennington and Rita Bennington Claimant(s)

vs.

Shearson Lehman Brothers, Inc. and Cesar L. Portugal, Jr. Respondent(s)

CASE NO. 88-01773

SUMMARY OF ISSUES

This case was filed on June 6, 1988. Claimants alleged that Respondents made purchases in SafeCard Services without authorization or approval by Claimants. Claimants alleged that this constituted a breach of contract and a breach of fiduciary duty. Claimant also alleged that SafeCard was unsuitable for Claimants and that Respondent acted with intent to defraud Claimants or with such willful and reckless disregard for the interests of Claimants as to be tantamount to an intent to defraud Claimants. Claimants alleged that Shearson is liable for failure to supervise Respondent Portugal. Respondents alleged that all trades in Claimants' account were fully explained and authorized, that the securities were suitable in light of Claimants' investment objectives, experience and financial status, and that Claimants ratified the transactions. Respondents asserted eight affirmative defenses.

DAMAGES AND RELIEF REQUESTED

Claimants requested that the trades in SafeCard stock be rescinded and their money refunded (\$60,750.00), or for actual damages in an amount to be shown at the hearing, for punitive damages, for interest on the amount due from the dates of the unauthorized transactions, and any other relief that the panel deems just and proper, including their costs and attorneys' fees. Respondents requested that the Statement of Claim be dismissed and that costs and disbursements be assessed against Claimants.

DAMAGES AND RELIEF AWARDED

On October 10, 1989, the undersigned arbitrators heard the controversy in two sessions between the parties as set forth in submissions to arbitration signed by Claimants on May 23, 1988, by Respondent Shearson Lehman Hutton, Inc. on August 9, 1988 and by Respondent Portugal at the hearing in the presence of the arbitrators on October 10, 1989. The arbitration panel,

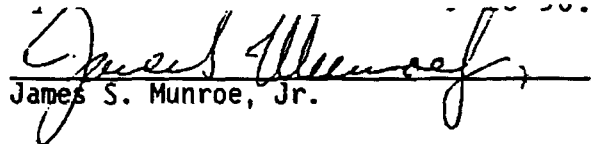
having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of Claimants 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 retain the \$500.00 filing fee previously deposited by the Claimants. Further, pursuant to Section 43 of the Code of Arbitration Procedure, Respondents are assessed forum fees in the amount of \$500.00 to be paid directly to the National Association of Securities Dealers, Inc. Said liability is joint and several.

DATE SERVED: November 27, 1989

(CITY

L.S.


James S. Munroe, Jr.

STATE OF HAWAII ss.:
COUNTY OF HONOLULU

On this 9th day of November, 19 89, before me personally appeared James S. Munroe, Jr. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.


Alicia K. Barron
Notary Public, State of Hawaii
My Commission expires: 6/27/93

Carolyn J. Yamasaki
Carolyn J. Yamasaki

STATE OF Hawaii ss.:
COUNTY OF HONOLULU

On this 13th day of November, 1989, before me personally appeared Carolyn J. Yamasaki to me known and known before me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.

James K. Lindsay
Notary Public, State of Hawaii
My commission expires: 4/23/90

L.S.