

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)

MICHAEL PEARCE)

Claimant)

and)

SHEARSON LEHMAN BROTHERS)
JANE RHODES)

Respondent)

CASE NO. 88-1895

CASE SUMMARY

In a Claim filed on or about June 13, 1988 the Claimant alleged that the Respondent Rhodes falsely informed him that his shares of common stock could not be sold pursuant to his instructions on October 13, 1987. The Claimant stated that this information caused a delay in the sale until October 19, which resulted in a loss to him. The Claimant alleged that the actions of Ms. Rhodes constituted a breach of fiduciary duty, negligence, breach of contract, and malpractice by her and by virtue of the doctrine of respondent superior, by Respondent Shearson Lehman Brothers.

The Respondents claimed that a sell order was not entered until October 19 at which time it was promptly executed pursuant to his instructions.

RELIEF REQUESTED

Claimant sought recovery of \$38,000.00 plus incidental and consequential damages, plus pre-judgment interest. In addition, the Claimant asked for costs, expenses, expert witness fees and attorneys' fees.

The Respondents asked that all claims against them be dismissed.

AWARD

On September 15, 1989, in Denver, Colorado, during a hearing lasting 2 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on May 25, 1988 by the Claimant, on August 8, 1988 by Linda Yarden on behalf of Respondent Shearson Lehman Hutton and on August 9, 1988 by Respondent Jane Rhodes.

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. All Claims of the Claimant are hereby dismissed in all respects;

2. Each party shall bear its own costs and expenses, including attorneys' fees; and

3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$400.00 previously deposited with the NASD by the Claimant and shall charge the Respondents \$400.00 jointly and severally.

By the Panel

Dated: 11-27-89 /S/ Bruce W. Brady, CPA
Presiding Chair

Dated: 11-27-89 /S/ Arnold Church, Esq.

Dated: 11-27-89 /S/ J. Patrick Driver

Date Served: 12-8-89