

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

BERNARD R. KOEHNE

Claimant

and

SHEARSON/AMERICAN EXPRESS, INC. AND
RICHARD G. RALPH

Respondents

CASE NO. 88-02160

CASE SUMMARY

In a claim filed with the NASD on or about July 7, 1988, Claimant Bernard R. Koehne ("Claimant") alleged that Respondent Richard G. Ralph ("Ralph") made material misrepresentations in relation to the purchases of various stocks; that Respondent Ralph urged Claimant not to sell the stocks when the prices began to decline; that Respondent Ralph made material misrepresentations regarding the risks associated with the purchase of various stocks. Claimant further alleged that he was not suitable for the investments recommended by Respondent Ralph.

In their joint answer filed with the NASD on or about September 26, 1988, Respondents Shearson Lehman Hutton, Inc. ("Shearson") and Ralph (collectively as "Respondents") denied the allegations of Claimant. Respondents affirmatively stated that Claimant was fully informed as to the risks associated with the purchase of aggressive growth stocks; that Claimant was suitable for the purchases in question; that all transactions were made with the express authorization of Claimant.

On or about August 16, 1988, Claimant filed an Amended to the Statement of Claim which included the allegation that Respondent Shearson was not authorized to transact interstate business in the State of Texas.

On or about March 15, 1990, Respondents filed their First Amended Answer wherein they stated that the claims are barred by the Statute of Limitations.

RELIEF REQUESTED

Claimant requested an award in the amount of \$32,633.35 plus interest.

Respondents requested that the Statement of Claim be dismissed and that costs be assessed against Claimant.

AWARD

On Wednesday, March 21, 1990 in Houston, Texas during a hearing lasting two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on June 21, 1988 by Claimant Bernard R. Koehne, on September 22, 1988 by William A. Hohausser on behalf of Respondent Shearson Lehman Hutton, Inc. and on October 10, 1988 by Respondent Richard G. Ralph.

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 Statement of Claim shall be and hereby is dismissed and denied in its entirety;

2. Each party shall bear their own respective costs, expenses and fees including attorneys fees incurred in this matter not specifically enumerated herein; 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 filing fee previously deposited with the NASD by the Claimant Bernard R. Koehne. Respondents shall pay to the NASD as additional forum fees, the sum of \$800.00.

By the Panel

Dated: March 21, 1990 /S/ Raymond L. Britton, Sr. Esq.
Presiding Chair

Dated: March 21, 1990 /S/ Richard A. Hollenberg

Dated: March 21, 1990 /S/ William J. Hawkins, Esq.

Date Served: 3-28-90