

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Frances M. Aidman

Claimant

)
)
) Case #88-02179
)
)
)

vs.

)
) Award
)
)
)

Shearson Lehman Brothers, Inc.
and Todd Pescan

Respondents
)
)
)
)
)

CASE SUMMARY

Claimant Frances M. Aidman brought this claim on July 8, 1988 and alleged that Respondent Todd Pescan failed to advise her of the risk to the principal investment prior to her purchase of \$50,000.00 worth of shares in the Shearson Lehman Special Portfolio Long-Term Government Income Fund ("Government Income Fund"). Claimant further alleged that the recommended investment was not suitable in light of her stated investment objectives and the investment itself was an undue concentration in one security. Respondents maintain that Respondent Pescan discussed various investments and investment strategies with Claimant that would meet her stated investment objectives; that Respondent Pescan recommended and fully discussed the risks and relative advantages and disadvantages in three alternative investments within the Shearson family of Mutual Funds, and that Claimant chose the Government Income Fund specifically because it yielded a higher rate of return than the other alternative investments. Respondents further maintain that Claimant was provided with a prospectus on the Government Income Fund prior to her purchase which detailed the risk in the investment.

RELIEF REQUESTED

Claimant requested damages in the amount of \$5,765.09 representing the loss of principal, and a waiver of any withdrawal penalty on the remainder of her money invested in the Shearson family of Funds. Respondents requested dismissal of the claim and costs.

AWARD

On March 29, 1989 in Los Angeles, California, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Frances M. Aidman on July 1, 1988, and by Respondents Shearson Lehman Hutton, Inc., and Todd Pescan on August 9, 1988. The arbitration panel, having considered the pleadings, the testimony, the evidence presented at the hearing and the post-hearing submission on behalf of the Claimant, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Shearson Lehman Brothers, Inc. and Todd Pescan are hereby jointly and severally liable for and shall pay to Claimant Frances M. Aidman the sum of Five Thousand, Seven Hundred, Sixty-Five Dollars and Nine Cents (\$5,765.09).

2. Respondent Shearson Lehman Brothers, Inc. is hereby directed to waive any withdrawal penalty associated with Claimant's remaining investment within the Shearson family of Funds should Claimant elect to withdraw her remaining investment from this family of Funds.



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 \$200.00 filing fee previously deposited by the Claimant.

OTHER ISSUES

ARBITRATORS CONCURRING

Date Served: July 6, 1989

Alan Stamm