

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

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Name of Claimant

Susan Blumenthal Stix

vs.

Case #  
88-02311  
AWARDName of RespondentsShearson Lehman Hutton, Inc.  
James Brennan

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CASE SUMMARY

Claimant, Susan Blumenthal Stix, alleges that Respondents, Shearson Lehman Hutton/American Express, Inc. and James Brennan, executed option trades and short sales of securities in her account which were unsuitable and inconsistent with her investment objectives. Claimant further alleges that Respondents liquidated her Blue Chip portfolio which Respondents knew Claimant considered her "nest egg" to supplement her income, to support her family and to educate her children. Claimant also alleges that Respondents committed fraud in handling her account.

Respondent, Shearson, Lehman Hutton/American Express, Inc., denies the allegations of wrongdoing and alleges that the trading in Claimant's account was suitable for her.

Respondent, James Brennan, denies the allegations of wrongdoing, interposes five affirmative defenses and asserts a Crossclaim against Shearson based upon the fact that the Commodore stock was on Shearson's technical and fundamental recommended list.

RELIEF REQUESTED

Claimant requests that the arbitration panel award them damages as follows:

1. \$137,735.83 for out-of-pocket trading losses; or alternatively,
2. \$221,577.66 for trading losses based on the benefit of bargain remedy; and
3. \$37,064 for improperly charged margin interest; and
4. \$11,007.18 for losses on four improper short sales; and

5. filing costs, interest and attorney's fees.

Respondent, Shearson, requests that the claims asserted by the Claimant be dismissed. Respondent, James Brennan, requests that the panel dismiss the claims asserted against him. Alternatively, if the panel finds liability on his part, he requests an award against Shearson under the theory of indemnification and contribution.

AWARD

On May 22 and 30, 1990, August 07, 1990, September 24, 1990, November 28, 1990 and January 03, 1991, said dates representing eleven (11) hearing sessions for this arbitration which was conducted in New York, New York, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant on July 13, 1988, and by Respondents, Shearson, Lehman Hutton, Inc. and James Brennan, on September 19, 1988 and November 08, 1988, respectively. 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. Respondents, Shearson, Lehman Hutton, Inc. and James Brennan, are hereby jointly and severally liable to the Claimant in the amount of Sixty Three Thousand Dollars and Zero Cent (\$63,000.00);
2. No interest is awarded on the above sum;
3. The Counterclaim asserted by Respondent, Brennan, is denied;
4. The parties shall each bear their respective costs, including attorneys' fees;
5. 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. A portion of that \$750.00 shall be applied to the \$300.00 non-refundable filing fee and the remaining \$450.00 shall be refunded to the Claimant as indicated in item number five (5) below;
6. Respondents are jointly and severally assessed forum fees in the amount of \$8,250.00 for eleven hearing sessions. Said assessment shall be satisfied in this manner, \$450.00 shall be paid to the Claimant and \$7,800 shall be paid to the NASD, Inc.

ARBITRATOR CONCURRING

  
Andrew Reagen

DATED BY NASD  
JANUARY 30, 1991