

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between )  
 )  
Harold R. Decker, )  
 ) Claimant, )  
 ) Case #88-02799  
vs. ) Award  
 )  
Shearson Lehman Hutton, Inc., )  
John L. Ballard IV and )  
Tom Worley, )  
 ) Respondents. )  
 )  
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Heard before the members of the Arbitration Panel:

John P. Cullem, Esq.  
Marvin M. Morgenstern, Esq.  
Mrs. Sharon S. Pettit

CASE SUMMARY

This claim was filed with the NASD, Inc. on September 1, 1988. The hearing was conducted in Tampa, Florida on September 22, 1989 with a total of 2 sessions.

Claimant, Harold R. Decker ("Decker") alleged that Respondent, Shearson Lehman Hutton, Inc. ("Shearson") through its employee, Respondent, John Ballard IV ("Ballard") induced Claimant to sell Ohio Edison stock by misrepresenting certain facts. Additionally, Claimant alleged that Shearson and Ballard placed him in an unsuitable investment; opened a margin account in Claimant's name to purchase that investment; that the margin account was never authorized by Claimant; and that Respondents, Shearson and Worley failed to execute a sell order placed by Claimant regarding ICOT Stock. Respondents alleged that: Claimant was fully informed at all times; Ballard relayed to Claimant information received from a Shearson Analyst; Claimant made an informed decision to sell Ohio Edison; made a profit on the sale of that stock; signed an account agreement which specifically provided for transactions which are effected in a margin account; never objected to the transactions; all transactions were authorized by Claimant; Claimant never specifically asked Worley to sell the ICOT Stock and stop orders cannot be placed on over-the-counter stock like ICOT.

RELIEF REQUESTED

Claimant requested damages in the amount of Thirty Three Thousand Two Hundred Forty-Four and 35/100 (\$33,244.35) Dollars plus interest, attorney's fees and other costs. Respondents requested dismissal of the claim.

## AWARD

On September 22, 1989, the arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on August 25, 1988, and by Respondents, Ballard and Worley on May 9, 1988 and by Respondent, Shearson on April 26, 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. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD, Inc.
2. Respondents, Worley and Shearson, are hereby liable, jointly and severally, and shall pay to Claimant the amount of Five Thousand Two Hundred Fifty and 00/100 (\$5,250.00) Dollars.
3. Respondent, Ballard, is not liable and, therefore all claims against him are hereby dismissed.
4. Claimant's request for attorney's fees is hereby dismissed in all respects.
5. Respondent's request for attorney's fees is hereby dismissed in all respects.
6. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitrators have assessed forum fees in the amount of Eight Hundred and 00/100 (\$800.00) Dollars (\$400 x 2 sessions). Claimant has been assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars. The NASD, Inc. shall retain the Four Hundred and 00/100 (\$400.00) Dollar filing fee previously deposited by the Claimant in full satisfaction of such forum fees. Respondents, Worley and Shearson have been assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars to be paid to the NASD, Inc. and for which they shall be jointly and severally liable.
7. The parties shall each bear all other costs incurred by them in connection with this proceeding.

## OTHER ISSUES

None.

## ARBITRATORS CONCURRING

John P. Cullem, Esq.  
Marvin M. Morgenstern, Esq.  
Mrs. Sharon S. Pettit

Dated this 13th day of October 1989.