

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

DONALD R. ELLER

Claimant

and

SHEARSON LEHMAN HUTTON, INC.
ANTHONY SAWIN AND TOM NOLL

Respondents

CASE NO. 88-02832

CASE SUMMARY

Claimant alleges that he placed a sell order for 2200 warrants of Intel Stock at the market. Allegedly, Respondent failed to execute the order causing a loss to the Claimant. Respondents replied in a joint statement of answer that on October 14, 1987, Respondent Sawin recommended the sell of Claimant's Intel warrants. Allegedly, Claimant temporarily rejected the recommendation and decided to hold the position. Respondents allege that a liquidation order was not placed. Respondents assert various affirmative defenses including but not limited to failure to mitigate, ratification and assumption of the risk.

RELIEF REQUESTED

Claimant requests actual damages in the amount of \$24,750.00 plus costs. Respondents request dismissal of the claims and costs.

AWARD

On August 3, 1989 in Denver, Colorado in a hearing lasting one session, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on September 2, 1988 by the Claimant Donald R. Eller, on November 21, 1988 by Respondent Anthony Sawin, on November 22, 1988 and by their answer, Shearson Lehman Hutton and Tom Noll.

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 against Respondents, Shearson Lehman Hutton, Inc., Anthony Sawin and Tony Noll, shall be dismissed;

2. 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 Donald R. Eiler.

By the Panel

Dated: August 28, 1989 /S/ Carol J. Zamperini
Presiding Chair

Dated: August 28, 1989 /S/ Albert Brenman, Esq.

Dated: August 28, 1989 /S/ C. James Padgett