

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of The Arbitration Between

Nancy Friedt

Claimant(s)

vs.

Shearson Lehman Hutton, Inc.

Respondent(s)

CASE #86-03003

AWARD

SUMMARY OF ISSUES

This case was filed on September 22, 1988.

On August 31, 1987, Claimant, (Friedt) purchased 2000 shares of Epitope Inc. in her account which was maintained by Respondent (Shearson). On September 1, 1987, she purchased an additional 2000 share in her margin account. Subsequent to these purchases, the price of the shares fell and Claimant sold all her holdings in Epitope Inc. at a loss. The stock was, in fact, not qualified for a margin purchase on either date.

Claimant alleges that she would not have bought any Epitope Inc. stock if she had been told at the time of the first purchase that no margin purchase could be made. Respondent claims that Claimant would have made the first purchase regardless of the representations as to margin ability.

DAMAGES AND RELIEF REQUESTED

Claimant alleges that her losses associated with the decline in value of her Epitope Inc. was caused by misrepresentations by Respondent.

Claimant seeks to recover \$20,619.75 intent, attorneys' fees and costs. Respondent seeks dismissal of the claim in its entirety.

AWARD

On July 7, 1989, the arbitrators heard in two sessions the controversy between the parties as set forth in submissions to arbitration signed by Claimant Nancy Friedt on September 22, 1988 and by Respondent Shearson, Lehman Hutton, Inc. on October 26, 1988. 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. Claimants motion for partial summary judgement is denied.
2. Respondent Shearson, Lehman Hutton, Inc. is liable and shall pay to Claimant Nancy Friedt the sum of Ten Thousand Nine Hundred Six Dollars and

Ninety Nine Cents (\$10,906.99).

3. Claimant's claim for interest on said sum is dismissed.
4. Any and all other claims of Claimant are dismissed.
5. The parties shall each bear their respective costs including attorneys' fees.
6. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimant. Respondent Shearson, Lehman Hutton, Inc. is assessed and shall pay to the NASD \$400.00 in forum fees.

ARBITRATORS CONCURRING

DATE SERVED: 07/28/89

Robert D. Rankin, Esq.


Clyde Fahman

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