

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Esther B. Warner

Claimant

vs.

CASE #88-03133

AWARD

Shearson Lehman Hutton, Inc.

Respondent

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on October 7, 1988, Claimant Esther B. Warner alleged Respondent through the use of misstatements and omissions induced the Claimant to make investments that were completely unsuitable for her in light of her age, financial sophistication, stated investment objectives and in relation to Claimant's overall portfolio. Claimant further alleged the Respondent acted willfully in contravening Claimant's instructions or was highly reckless and negligent in making unsuitable investment recommendations to Claimant thereby breaching the fiduciary duty owed to the Claimant. Respondent Shearson Lehman Hutton, Inc. maintained the investment was appropriate and suitable based upon Claimant's investment objectives, the investment's past performance of consistently high cash returns to prior investors, and Claimant's desire for income, stability of principal and the prevailing economic outlook for Claimant's particular investment. Respondent further maintained there were never any misrepresentations made to the Claimant and she was aware of the inherent risks and the material elements necessary to make an informed decision. Respondent further maintained the damages allegedly sustained were a direct result of unpredictable and uncontrollable changes in the market.

RELIEF REQUESTED

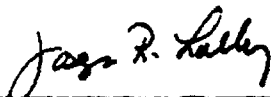
Claimant requested damages in the sum of \$75,000.00 plus interest at a conservative market rate from October 1983 through the date of judgment, less any distribution of cash received in respect of Damson during such period and less the market value of Claimant's Damson units on the date of judgement. Claimant also seeks punitive damages in the sum of \$18,750.00 plus costs, reasonable attorneys' fees and such other relief as may be deemed appropriate. Respondent requested dismissal of claim and that costs be assessed against the Claimant.

AWARD

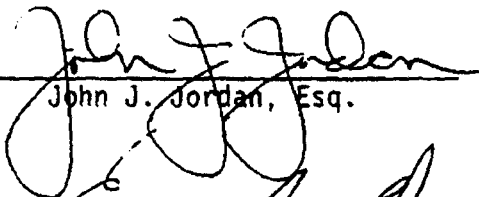
On December 19, 1989 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Esther B. Warner on October 31, 1988, and by Respondent Shearson Lehman Hutton, Inc. on February 7, 1989. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. located in Philadelphia, PA and consisted of two (2) hearing sessions. 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 Respondent Shearson Lehman Hutton, Inc. be and hereby is liable and shall pay to the Claimant Esther B. Warner the sum of Fifty Eight Thousand Six Hundred Ninety One Dollars and Twenty Two Cents (\$58,691.22), inclusive of interest.
2. The parties shall each bear their respective cost including attorneys' fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimant. In addition, the Respondent Shearson Lehman Hutton, Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$500.00 to represent forum fees.

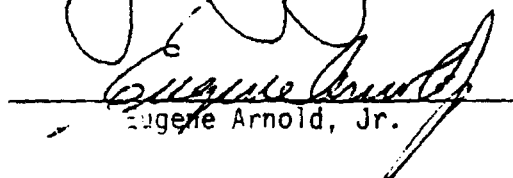
CONCURRING ARBITRATORS



Joseph R. Lally, Esq.



John J. Jordan, Esq.



Eugene Arnold, Jr.

NASD RECEIVED, DATED: ~~February~~ March 5, 1990