

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Geraldine and Donald DeSimone

88-03229

Name of Respondent(s)

Shearson Lehman Brothers
Elias Argyropoulos

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on October 18, 1988.

Claimants Donald and Geraldine DeSimone (DeSimone) allege that Respondents Shearson Lehman Hutton, Inc. and Elias Argyropoulos caused DeSimone to invest in speculative common stocks and use margin for these investments when they knew or should have known that said investment strategy was unsuitable for DeSimone in light of their investment objectives. DeSimone alleges that they needed investments that produced income in that DeSimone was retired.

Respondents allege that DeSimone was fully informed as to the risks involved in the use of margin and were aware of the fact that the common stock in which they invested were not income-producing. Consequently, the portfolio of common stocks were sold in response to a margin call, leaving a debit balance in the DeSimone account.

DAMAGES AND RELIEF REQUESTED

Claimants seek to recover their initial investment of \$150,000.00; \$25,000.00 paid toward reduction of the debit balance; interest, return of commissions paid and punitive damages.

Respondent Shearson Lehman Hutton, Inc. seeks dismissal of the claim in its entirety, costs, attorneys' fees, and, by way of counterclaim, recovery of the debit balance of \$63,946.00.

DAMAGES AND RELIEF AWARDED

On October 2 and 3, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Donald DeSimone and Geraldine DeSimone on October 14, 1988 and by Respondent Shearson Lehman Hutton, Inc. and Elias Argyropoulos on February 22, 1989.

The hearing was conducted in Los Angeles, California and lasted four 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. Each and every claim of claimants Donald DeSimone and Geraldine DeSimone against Respondents Shearson Lehman Hutton, Inc. and Elias Argyropoulos is dismissed.
2. Each and every claim of cross-claimant Shearson Lehman Hutton, Inc. against Donald DeSimone and Geraldine DeSimone is dismissed.
3. Respondent Shearson Lehman Hutton, Inc. shall pay to the National Association of Securities Dealers, Inc. the sum of Six Hundred Dollars and No Cents (\$600.00) for unpaid filing fee on the counterclaim.
4. Respondents Shearson Lehman Hutton, Inc. and Respondent Elias Argyropoulos are jointly and severally assessed and shall pay to the National Association of Securities Dealers, Inc. the sum of \$1,600.00 representing forum fees.
5. The parties shall each bear their respective costs including attorneys' fees.
6. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$750.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators.

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Evelyn Ann Kramer
