

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

JOHN P. KOCLANES AND
MILDRED M. KOCLANES

Claimants

and

SHEARSON LEHMAN HUTTON;
WAYNE HODGES AND DONALD McFAIL

Respondents

CASE NO. 88-03269

CASE SUMMARY

In a claim filed with the NASD on October 20, 1988, and supplemented by a filing dated July 24, 1989, Claimants John P. Koclanes and Mildred M. Koclanes allege that certain investments were misrepresented to them and that they were unsuitable for these investments.

In their joint Answer filed with the NASD on March 8, 1988, Respondents Shearson Lehman Hutton, Wayne Hodges and Donald McFail deny the allegations of the Claimants. Respondents further state that all transactions were authorized by the claimants prior to their execution.

RELIEF REQUESTED

Claimants, John P. Koclanes and Mildred M. Koclanes seek an award in the amount of \$4,585.56 plus costs. Respondents seek a denial of the statement of claim and an assessment of costs against the claimants.

AWARD

On Wednesday, November 15, 1989, in Kansas City, Missouri, during a hearing lasting two sessions, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on October 13, 1988 by Claimants John P. Koclanes and Mildred M. Koclanes, on March 7, 1989 by William Hohauser on behalf of Respondents Shearson Lehman Hutton, Wayne B. Hodges and Donald McFail. Respondents Wayne B. Hodges and Donald McFail did not properly execute a Submission to arbitration. However, Respondents Wayne B. Hodges and Donald McFail were required to submit to arbitration pursuant to Section 8 of the NASD Code of Arbitration Procedure and having answered the claim and testifying telephonically, are bound by the Arbitrator's final determination on all issues submitted.

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 against Respondent Wayne B. Hodges shall be and are hereby dismissed with prejudice;

2. Respondents Shearson Lehman Hutton and Donald McFail are jointly and severally liable for and shall pay to Claimants John P. Koclanes and Mildred M. Koclanes, the sum of Two Thousand Nine Hundred Sixty Dollars and Fifty-Six cents (\$2,960.56);

3. Interest at the rate of 9% per annum is awarded on the above stated sum, from and inclusive of May 23, 1988 until the date paid;

4. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$100.00 filing fee previously deposited with the NASD by the Claimants. Respondents Shearson Lehman Hutton and Donald McFail shall be jointly and severally liable for and shall directly reimburse Claimants this \$100.00 and pay the balance of \$300.00 to the NASD.

Presiding Chair

Dated: November 27, 1989

/s/

Daniel L. Fowler
Daniel L. Fowler, Esq.

Date Served: 11-30-89