

MAY 28 1990

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between :  
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Robert D. Waterman, Sr. : AWARD  
:   
Claimant : #88-03509  
vs. :   
:   
Shearson Lehman Hutton, Inc. :   
Donald M. Donaldson :   
Respondents :  
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Case Summary

Claimant alleged that Respondents Shearson Lehman Hutton, Inc. and John M. Donaldson executed unauthorized transactions in his account and misrepresented to the Claimant that the transactions executed would be investigated. Respondents maintained that the Claimant controlled his account completely and directed the trading. Further, Respondents maintained that the Claimant failed to cover margin calls and securities in his account were liquidated to cover them.

Relief Requested

Claimant requested damages of \$39,410.00 for Claimant's loss of capital investment, \$32,243.70 for lost profits, \$1,982.95 for commissions paid to the Respondents, treble damages under RICO for \$220,909.95, punitive damages of \$500,000.00, plus attorney fees and costs. Respondents requested that the claims of the Claimant be dismissed plus attorney fees and costs.

Award

On January 5, 1990 in Boston, Massachusetts in three hearing sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Robert D. Waterman, Sr. on November 4, 1988 and by Respondent Shearson Lehman Hutton, Inc. on January 25, 1989. Respondent John M. Donaldson did not sign a Submission Agreement as required by Sections 12 and 25 of the Code of Arbitration Procedure. The initial claim was filed on November 9, 1988. The arbitrators, 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. Respondents Shearson Lehman Hutton, Inc. and John M. Donaldson are jointly and severally liable and shall pay to the Claimant the sum of Thirty One Thousand One Hundred Six Dollars and No Cents (\$31,106.00). This amount is inclusive of interest.
2. The Claimant's claims for treble damages under RICO and punitive damages are denied.
3. The parties shall each bear their respective costs including attorney fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$1,000.00 filing fee previously deposited by the Claimant. Respondent John M. Donaldson is assessed \$2,000.00 in forum fees as costs of the three hearing sessions conducted in this matter.

CONCURRING ARBITRATORS

/s/ \_\_\_\_\_  
Mary C. Kelleher

/s/ \_\_\_\_\_  
William A. Barrett

/s/ \_\_\_\_\_  
Henry Schmelzer