

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
George Schmaus)	AWARD
Claimant)	
vs.)	CASE #88-03830
Shearson Lehman Hutton, Inc..)	
David Filippini)	
Rick Kendall)	
Respondent)	

SUMMARY OF ISSUES

Claimant alleged Respondent Filippini fraudulently misrepresented to him on October 19, 1987 that a margin call would be made momentarily in his account, causing Claimant to sell 10,000 shares of Anheuser Busch common stock at a loss. Claimant further alleged that on October 22, 1987 Respondents Shearson and Filippini negligently executed an order to sell 18,200 shares of Anheuser Busch after misquoting the stock price to Claimant. Claimant further alleged Shearson and Kendall failed to supervise account executive Filippini, thereby breaching their fiduciary duty to Claimant.

Respondents denied all allegations. Respondents asserted that Claimant, an experienced margin investor, placed the order to sell the 10,000 shares on October 19, 1987, and the order to sell 18,200 shares on October 22, 1987. Respondents denied liability for Claimant's losses.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages, as amended at hearing, of \$210,750.00 plus interest of \$40,768.15, costs and attorney's fees.

Respondents requested dismissed of all claims and an award of costs of arbitration.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on December 12, 1988. On July 26 and 27, 1990, the undersigned arbitrators heard the controversy between the parties pursuant to submissions to arbitration signed by Claimant on December 2, 1988, by Shearson

on February 17, 1989, by Filippini on February 21, 1989 and by Kendall on February 10, 1989. The hearing was conducted in Los Angeles, California and lasted three 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 as follows:

1. All claims against Rick Kendall are dismissed.
2. Respondents Shearson Lehman Hutton and David Filippini are jointly and severally liable for and shall pay to Claimant the sum of \$7,218.00 only.
3. The party shall each bear their respective costs including attorneys' fees.
4. 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. In addition, Shearson is assessed forum fees of \$750.00.

ARBITRATORS CONCURRING

DATE SERVED: 08/29/90

William R. Newsome

Michael Strieby



Lynn Teschendorf

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