

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

: In the Matter of the Arbitration Between	:	:
:	:	:
: George Billmeyer	:	:
:	Claimant	: CASE #88-03955
:	:	:
: vs.	:	: AWARD
:	:	:
: Shearson Lehman Hutton, Inc.	:	:
: George Dunn	:	:
:	:	:
:	Respondents	:
:	:	:
:	:	:
:	:	:

CASE SUMMARY

Claimant George Billmeyer alleged that Respondent George Dunn engaged in excessive trading in Claimant's account for purposes that benefited Respondent George Dunn and/or Respondent Shearson Lehman Hutton, Inc. Claimant further alleged Respondent George Dunn recommended to and placed the Claimant in investments that were totally unsuitable for him and failed to inform him of the risks involved in those investments. Claimant further alleged Respondent Shearson Lehman Hutton, Inc. actively and directly counseled and encouraged Respondent George Dunn to engage in transactions of the nature described herein. Claimant further alleged that the fraudulent and unlawful actions of Respondents constitute acts within the definition of 18 U.S.C Section 1961 (1)(D) and a pattern of activity as defined in 18 U.S.C. Section 1961 (5), including but not limited to mail fraud, wire fraud and securities fraud. Respondent Shearson Lehman Hutton, Inc. maintained all trading in Claimant's account was consistent with the investment objectives he had indicated to Respondent George Dunn upon opening his account at Shearson Lehman Hutton, Inc. Respondents further alleged Claimant was at all times aware of the status of his account through the transactional confirmations and monthly statements regularly sent to him by Shearson Lehman Hutton, Inc. and that Claimant made all final decisions with respect to his account and authorized all trades prior to their execution and Claimant was fully informed of the inherent risks involved in all investments effected in his account. Respondents further maintained Claimant failed to plead the requisites of a RICO Claim in that he failed to identify the "pattern" of alleged racketeering activity.

RELIEF REQUESTED

Claimant requested damages of \$75,000.00, plus pre-judgment interest, treble damages pursuant to 18 U.S.C. Section 1964(c), punitive damages in the amount of \$150,000.00 and costs and reasonable attorneys' fees. Respondents requested dismissal of claim and that they be awarded their costs and attorneys's fees incurred.

AWARD

On November 13 and December 4, 1989 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant George Billmeyer on August 5, 1988 and by Respondent Shearson Lehman Hutton, Inc. on April 28, 1989, and signed by Respondent George Dunn on November 13, 1989. The hearing was held at the offices of the National Association of Securities Dealers, Inc. located in Washington, DC and consisted of four (4) 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. Respondent Shearson Lehman Hutton, Inc. shall be liable to the Claimant in the amount of \$7,500.00.
2. Claim for punitive damages is dismissed.
3. Forum fees are assessed as follows:

Respondent Shearson Lehman Hutton, Inc.	\$2,250.00
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4. The parties shall each bear their respective costs including attorney's fees.
5. Pursuant to Section 43 of the Code of Arbitration Procedures, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant.

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CONCURRING ARBITRATORS

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Marshall Passman

Dated: December 4, 1989