

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant(s)

Bevis & Nelson Nickerson

89-00002

Name of Respondent(s)

Shearson Lehman Hutton, Inc.  
Eugene Gamble  
James Methven

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SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on January 17, 1989. Claimants alleged that Respondents placed Claimants in unsuitable investments, namely real estate limited partnerships, oil and gas limited partnerships and a tax-exempt mortgage fund. Claimants alleged fraud, negligent misrepresentation, violation of Corporations Code section 25401, violation of section 12(2), violation of section 10(b) and rule 10b-5, violation of RICO Act, negligent investment advice, breach of fiduciary duty, intentional infliction of emotional distress, and negligent infliction of emotional distress. Respondents alleged that Claimants were fully advised about the securities they purchased and sold and the profits and losses generated thereby, and that investments were consistent with the Nickersons' investment strategy. Respondents also alleged that the claims against all respondents are time barred, that Claimants have waived and are estopped from asserting their claims, and the Claimants' own negligence led to any alleged losses.

DAMAGES AND RELIEF REQUESTED

Claimants requested (1) rescission of the investments and restitution in the sum of \$124,897.63; (2) treble damages pursuant to the Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. section 1964 et seq; (3) punitive damages according to proof; (4) attorneys' fees; (5) costs of this proceeding; and (6) for such other and further relief as deemed just and proper. Respondents requested that the claim be denied.

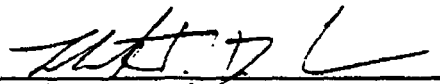
DAMAGES AND RELIEF AWARDED

On September 10, October 8, and October 22, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on December 19, 1988, by Respondent Methven on March 23, 1989, by Respondent Gamble on March 22, 1989, and by Respondent Shearson Lehman Hutton on April 3, 1989.

The hearing was conducted in Los Angeles, California and lasted six 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. Respondents Shearson Lehman Hutton, Inc. and Eugene Gamble are liable for and shall pay to Claimants the sum of Ninety-Five Thousand Dollars and No Cents (\$95,000.00). Said liability is joint and several.
2. Each and every claim against Respondent Methven is dismissed.
3. The parties 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 by the arbitrators. Respondents Shearson Lehman Hutton, Inc. and Eugene Gamble are jointly and severally liable for reimbursing Claimants said \$750.00 fee. In addition, Respondents Shearson Lehman Hutton, Inc. and Eugene Gamble are also jointly and severally assessed fees of \$3750 for forum fees, to be paid directly to the National Association of Securities Dealers, Inc.

Arbitrator(s) Signatures

  
Mark T. Dooks

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Bert Levy

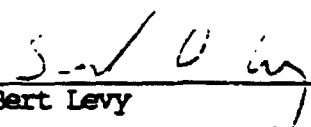
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John P. McShane

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Bert Levy


### DAMAGES AND RELIEF AWARDED

On September 10, October 8, and October 22, 1990 the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on December 19, 1988, by Respondent Methven on March 23, 1989, by Respondent Gamble on March 22, 1989, and by Respondent Shearson Lehman Hutton on April 3, 1989.

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John P. McShane