

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Orlan & Jean Wood

Claimants

vs.

Shearson Lehman Hutton, Inc.

Respondent

AMENDED AWARD

CASE NO. 89-00416

SUMMARY OF ISSUES

This case was filed on February 13, 1989. Claimants alleged that Respondent violated federal and Washington state securities laws. They alleged that Respondent placed Claimants into unsuitable limited partnership offerings, that Respondent breached its fiduciary duty to Claimants, that Respondent failed to disclose the risks of the limited partnerships and made material misrepresentations and omissions. Claimants alleged that they lost money through these investments, for which Respondent is liable. Respondent alleged that there was full disclosure to Claimants as to the investments, that Claimants had the ability to make their own decisions and they did so, that the investments were suitable, and that Respondent should not be held responsible for unpredictable market conditions.

DAMAGES AND RELIEF REQUESTED

In their Statement of Claim, Claimants requested an award of \$50,000.00. At the hearing, Claimants requested an amendment to their claim, to request an award of \$56,675.20 plus costs (\$400.00) and attorneys' fees (\$6,000.00 - \$8,000.00). Respondent disputed Claimant's calculation of damages and objected to an amendment of the claim. Respondent requested that the Statement of Claim be dismissed and the costs of this proceeding be assessed against Claimants.

DAMAGES AND RELIEF AWARDED

On February 15, 1990, in Seattle, Washington, the undersigned arbitrators heard the controversy in three sessions between the parties as set forth in submissions to arbitration signed by Claimants on February 9, 1989 and by Respondent on June 12, 1989. 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. Claimants' request to amend the Statement of Claim to raise the damage amount requested above \$50,000.00 is denied, including the request for attorneys' fees.

2. The motion of Respondent to dismiss the Statement of Claim based on the statute of limitations is denied.

3. Respondent is assessed and shall pay to Claimants the sum of Twenty-Nine Thousand, Three Hundred Twelve Dollars and Sixty Cents (\$29,312.60), and Claimants shall transfer to Respondent their interests in Shearson Equipment Investors III ("SEI") and Consolidated Capital Properties III ("CCP")

4. The parties shall each bear their respective costs including attorneys' fees.

5. In accordance with Section 43 of the National Association of Securities Dealers, Inc. ("NASD") Code of Arbitration Procedure:

- a. the NASD shall retain the \$400.00 filing fee previously deposited by the Claimants as an assessment of forum fees by the arbitrators; and
- b. Respondent is assessed forum fees in the amount of \$800.00, to be paid directly to the National Association of Securities Dealers, Inc.

OTHER ISSUES

Prior to the hearing, Respondent filed a Motion to Dismiss based on the statute of limitations. Claimants opposed this motion. The

arbitration panel deferred ruling on this motion until after the hearing.

PRESIDING ARBITRATORS

DATE SERVED: 04/18/90

Harry E. Jennings
Harry E. Jennings

Michael Busch
Michael Busch

Don Boehm
Don Boehm