

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Stephen R. & Winifred H. Gregory Claimants

vs.

Shearson Lehman Hutton, Inc. and Respondents
Harry J. Stamatis

AWARD

CASE NO. 89-00670

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on March 3, 1989. Claimants alleged the following: lack of suitability, unauthorized trading and excessive trading of their securities investments.

Respondents denied the Claimants' allegations and asserted the following affirmative defenses: failure to state a claim upon which relief can be granted, assumption and acceptance of the risk of loss, transactions complained of were duly authorized, Claimants understood risks and the transactions were suitable, claims are barred by the doctrines of ratification and affirmance of the conduct alleged, and failure to mitigate the damages.

DAMAGES AND RELIEF REQUESTED

Claimants requested the following: 1. Compensatory damages of \$1,300,000.00 on their suitability claim; 2. Compensatory damages of \$1,300,000.00 on their churning claim; 3. Punitive damages of at least \$3,000,000.00; 4. Treble Racketeering Influenced and Corrupt Organization (RICO) damages; and 5. Attorneys' fees and costs. Claimants' damage request was amended by their "closing brief" as submitted April 30, 1990.

DAMAGES AND RELIEF AWARDED

On March 13 and 14, 1990, the undersigned arbitrators heard the controversy in five sessions between the parties as set forth in submissions to arbitration signed by Claimants on March 1, 1989 and by Respondents Shearson Lehman Hutton, Inc. on April 24, 1989 and Harry J. Stamatis on the record orally at the hearing (Stamatis represented he would forward a submission agreement). 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 are jointly and severally liable for and shall pay to Claimants the sum of Two Hundred Twenty-Eight Thousand, Six Hundred Thirty-Five Dollars and Fifty-Two Cents (\$228,635.52) in compensatory damages.

2. Respondents are jointly and severally liable for and shall pay to Claimants the sum of Forty-Three Thousand, Four Hundred Forty Dollars and Seventy-Five Cents (\$43,440.75) in interest.

3. The claim for punitive damages is dismissed.

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

5. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$1,000.00 filing fee previously deposited by the Claimants. Also in accordance with Section 43, the arbitrators assess forum fees as follows:

- a. Against Claimants jointly and severally, \$2,500.00, payable to the National Association of Securities Dealers, Inc., reduced to \$1,500.00 because of the \$1,000.00 filing fee already paid; and
- b. Against Respondents jointly and severally, \$2,500.00, payable to the National Association of Securities Dealers, Inc.

PRESIDING ARBITRATORS

DATE SERVED: 06/07/90


Michael C. Cohen

Parker M. Bartlett

David N. Mahler