

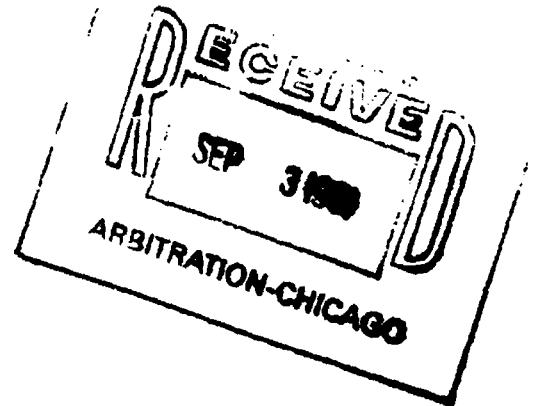
N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Lavata Gresham, Virginia Hurlbut, Bernice Kitkoski, Lillian A. Boone, Bernice Kujawa, Mary Lou Medillin, Anna Mae Waldrip, Carole M. Moore, and Delores Sorrick



89-01067

Name of Respondent(s)

E.F. Hutton & Company, Inc., n/k/a Shearson
Lehman Brothers, Inc.
George Mulqueen

REPRESENTATION

Claimants Lavata Gresham, Virginia Hurlbut, Bernice Kitkoski, Lillian A. Boone, Bernice Kujawa, Mary Lou Medillin, Anna Mae Waldrip, Carole M. Moore and Delores Sorrick were represented by Leonard S. Roth, Esq. of Levin, Roth & Kasner, P.C., Houston, Texas.

Respondents E.F. Hutton & Company, Inc., now known as Shearson Lehman Brothers, Inc., and George Mulqueen were represented by Linda Yarden, Esq. of Shearson Lehman Brothers, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed: April 6, 1989

Response to Motion to Sever filed: October 31, 1989

Claimant Lavata Gresham's Submission Agreement signed on: March 10, 1989

Claimant Virginia Hurlbut's Submission Agreement signed on: March 10, 1989

Claimant Bernice Kitkoski's Submission Agreement signed on: March 10, 1989

Claimant Lillian A. Boone's Submission Agreement signed on: March 7, 1989

Claimant Bernice Kujawa's Submission Agreement signed on: March 7, 1989

Claimant Mary Lou Medillin's Submission Agreement signed on: March 15, 1989

Claimant Anna Mae Waldrip's Submission Agreement signed on: March 13, 1989

Claimant Carole M. Moore's Submission Agreement signed on: March 9, 1989

Claimant Delores Sorrick's Submission Agreement signed on: March 8, 1989

Statement of Answer and Motion to Sever filed by Respondents E.F. Hutton & Co., Inc., now known as Shearson Lehman Brothers, Inc. and George Mulqueen on: August 10, 1989

Respondent, E.F. Hutton & Co., Inc., now known as Shearson Lehman Brothers, Inc.'s Submission Agreement signed by Maureen Cunningham on: August 8, 1989
Respondent George Mulqueen did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

HEARING INFORMATION

Hearing Dates/Sessions: December 12, 1990 for two (2) sessions
December 13, 1990 for two (2) sessions
June 25, 1991 for two (2) sessions
June 26, 1991 for two (2) sessions
June 27, 1991 for two (2) sessions

Hearing Location: Houston, Texas

CASE SUMMARY

Claimants Lavata Gresham, Virginia Hurlbut, Bernice Kitkoski, Lillian A. Boone, Bernice Kujawa, Mary Lou Madillin, Anna Mae Waldrip, Carole M. Moore and Delores Sorrick ("Claimants") alleged that Respondent George Mulqueen ("Mulqueen"), while employed by or acting as an agent for Respondent E.F. Hutton & Co., Inc., now known as Shearson Lehman Brothers, Inc. ("Shearson"), induced the Claimants into investing in the HIS Government Securities Fund of E.F. Hutton by misrepresenting the risk of the investment through statements that: 1) it was as safe as a certificate of deposit; 2) the principal was not at risk; 3) the only way to lose was if the U.S. Government went broke; and 4) the investment was short-term and if the Fund management saw a market decline, they would get out to preserve the capital. The Claimants began to lose principal following their investment due to the fluctuation of interest rates and a change in market conditions, risks which Claimants alleged were not explained to them until after their funds were invested. Claimants alleged that they would not have made the investment without Mulqueen's assurances that their principal was safe. The Claimants further alleged that this investment was unsuitable given their financial background and investment objectives.

Respondents Shearson and Mulqueen denied the material allegations of the Statement of Claim, alleging that Mulqueen fully explained the risk involved in each Claimants' respective investment and that each Claimant received a prospectus further explaining the risk and investment in detail. In addition, Respondents asserted as affirmative defenses that the losses alleged were caused, in whole or in part, by Claimants' failure to mitigate their damages and that the Claim is barred by the doctrines of ratification and waiver.

Respondents asserted a Motion to Sever the individual claims as part of their

Answer. Claimants responded and objected to the Motion. On November 16, 1989, the Director of Arbitration denied the Motion to Sever.

RELIEF REQUESTED

Claimants requested entry of an award against Respondents for each Claimant in the following damage amounts:

1. Lavata Gresham in the sum of \$13,279.00;
2. Virginia Hurlbut in the sum of \$27,111.64;
3. Bernice Kitkoski in the sum of \$38,288.67;
4. Lillian A. Boone in the sum of \$7,212.45;
5. Bernice Kujawa in the sum of \$16,209.98;
6. Mary Lou Medillon in the sum of \$32,960.72;
7. Anna Mae Waldrip in the sum of \$35,388.03;
8. Carole M. Moore in the sum of \$22,828.59; and
9. Delores Sorrick in the sum of \$40,975.42.

In addition, Claimants requested the waiver of any withdrawal fees required for Claimants still in the Fund to withdraw their monies; punitive damages in the sum of \$250,000.00; and reasonable attorneys' fees.

Respondents E.F. Hutton & Co., Inc., now known as Shearson Lehman Brothers, Inc. and George Mulqueen requested that the Statement of Claim be dismissed and denied in its entirety and that costs be assessed against Claimants.

AWARD

After considering the pleadings, the testimony, the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD;
2. The Statement of Claim is hereby dismissed and denied in its entirety;
3. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

The National Association of Securities Dealers, Inc. shall retain the claim

filing fee of \$200.00 and refund the hearing session deposit of \$550.00 previously deposited by the Claimants. Respondents E.F Hutton & Co., Inc., now known as Shearson Lehman Brothers, Inc. and George Mulqueen are jointly and severally liable for and shall pay to the NASD forum fees in the sum of \$7,500.00.

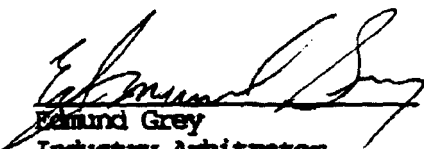
Fees are payable to the National Association of Securities Dealers, Inc.

BY THE ARBITRATION PANEL

Dated:

Robert E. Morse, Jr., Esq.
Chairperson
Public Arbitrator

Gordon W. Hall, Esq.
Public Arbitrator


Edmund Grey
Industry Arbitrator

8/29/91

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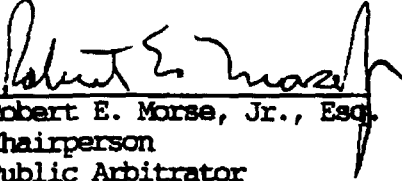
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BY THE ARBITRATION PANEL

Dated:


Robert E. Morse, Jr., Esq.
Chairperson
Public Arbitrator

8-30-91

Gordon W. Hall, Esq.
Public Arbitrator

Edmund Grey
Industry Arbitrator