

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
:
ALBERT AND PATRICIA MESSECAR :
:
CLAIMANTS :
:
V. : AWARD
: #89-01264
:
SHEARSON LEHMAN HUTTON, INC. :
MIKE DEAN JOSEPH ALIOTO :
:
RESPONDENTS :
:

CASE SUMMARY

The Statement of Claim was filed with the NASD, Inc. on April 27, 1989.

Claimants, Albert and Patricia Messecar, alleged that they were unsophisticated investors with limited resources when Respondent, Mike Dean Joseph Alioto, a broker at E.F. Hutton, Inc. now Known as Shearson Lehman Hutton, Inc., violated their investment objectives of safe conservative investments by investing their funds in junk bonds causing them substantial losses.

Respondents, Shearson Lehman Hutton, Inc. and Mike Dean Alioto, denied all allegations of wrong doing and maintained that since no one at E.F. Hutton, Inc. had discretionary authority over the Claimants' account all transactions were executed only after explicit authorization from Claimants and that Claimants were fully aware of the risks inherent with corporate bonds. Respondents further maintained that each recommendation was eminently suitable for Claimants.

RELIEF REQUESTED

Claimants requested an amount representing out of pocket losses of \$31,421.00 plus consequential, punitive and exemplary damages as allowed by law. Claimants also requested an award of interest costs and attorneys' fees.

Respondents requested dismissal of the Claim plus costs and attorneys' fees.

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AWARD-#89-01264

AWARD

On February 4, 1991 the undersigned arbitrators heard the controversy between the Parties as set forth in submissions to arbitration signed by Claimants, Albert and Patricia Messecar on April 17, 1989 and by Respondents, Shearson Lehman Hutton, Inc. and Mike Dean Joseph Alioto on October 3, 1989. The hearing was held in Southfield MI and consisted of three (3) 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 Mike Dean Joseph Alioto, are jointly and severally liable to pay to Claimants the sum of Six Thousand Twenty Four Dollars and no cents (\$6,024.00);
2. Claimant's Claim for punitive damages shall be and hereby is dismissed in all respects;
3. The Parties shall each bear their respective costs, including attorneys' fees;
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$500.00 filing fee previously deposited by the Claimants;
5. Respondents, Shearson Lehman Hutton, Inc. and Mike Dean Joseph Alioto, are jointly and severally assessed forum fees in the amount of \$1,000.00 payable to the NASD, Inc. through its staff administrator in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATORS CONCURRING

/s/

James C. Steffl, Esq.
(Public-Chairman)

/s/

Carole M. Crosby, Esq.
(Public-Panelist)

/s/

Alfred B. Moran
(Industry-Panelist)

Dated: March 7, 1991