

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Harry and Vicki Leblanc

Claimants

and

Shearson Lehman Hutton and
Elroy F. Perrien

Respondents

A W A R D
89-01409

CASE SUMMARY

In a claim filed with the NASD on or about April 25, 1989, Claimants Harry and Vicki LeBlanc ("the LeBlancs") alleged that Respondents Elroy F. Perrien ("Perrien") and Shearson Lehman Hutton, Inc. ("Shearson"), successor to E.F. Hutton, Inc. recommended an unsuitable investment for the LeBlancs and additionally misrepresented to the LeBlancs that their principal would not decline. The LeBlancs alleged that they informed Perrien that their only source of income was the interest to be earned on their investment since Mr. LeBlanc was disabled. Perrien allegedly insured the LeBlancs that there would be not principal reduction and that the only variance would be on the monthly interest checks payable to them. Accordingly, the LeBlancs invested the proceeds of Mr. LeBlanc's workmen's compensation settlement in an HIS Government Security Fund. The LeBlancs principal declined substantially in 1987.

Shearson and Perrien denied the allegations of the claim and maintained that the HIS Fund was a perfectly suitable investment. This fund was alleged to be a conservative, fixed income fund which was perfectly suitable for the LeBlanc's needs and objectives. Shearson and Perrien also maintained that the LeBlancs were never told that the principal investment would not fluctuate. The LeBlancs were allegedly furnished a prospectus which described the fund's features and Shearson and Perrien should not be held accountable for market fluctuation.

RELIEF REQUESTED

The LeBlancs sought \$17,000 in compensatory damages. Shearson and Perrien requested dismissal of the claim in its entirety with an award of costs and attorney's fees.

AWARD

On Monday, February 5, 1990 in New Orleans, Louisiana during a hearing lasting two sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on April 12, 1989 by Claimants Harry and Vicki Leblanc. The NASD file did not contain submissions to arbitration executed by Shearson or Perrien. However, both Respondents are required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure and Respondent's counsel indicated for the record that the Respondents submitted to arbitration. Therefore, the Respondents will be bound by the panel's decision on all matters submitted for consideration.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The claim asserted against Shearson and Perrien by the LeBlancs shall be and is hereby dismissed in its entirety;
2. The parties shall each bear their respective costs and expenses including attorney's fees;
3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$400.00 filing fee previously deposited with the NASD by the Claimant and Shearson is assessed and will pay to the NASD as forum fees the sum of \$800.00.

By the Panel

Dated: February 5, 1990

/S/ John F. Galvin
Presiding Chairman

Dated: February 5, 1990

/S/ Peter Francis Ricchiuti

Dated: February 5, 1990

/S/ Stafford M. Smith