

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between/Among

The Fahey Banking Company
Martin Hughes, III and
Carl Hughes

Claimants

* Case #89-01465
Award

vs

Shearson Lehman Hutton, Inc.
Stephen Schott
Glenn Pallen

Respondents

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CASE SUMMARY

Claimants, The Fahey Banking Company ("Fahey"), Carl Hughes and Martin Hughes, III, alleged that Respondents Shearson Lehman Hutton, Inc., Stephen Schott and Glenn Pallen ("Respondents") violated the Racketeer Influenced and Corrupt Organization ("RICO") Act, various state and federal securities laws, and committed common law fraud. Claimants alleged Respondents misrepresented the characteristics of an investment solicited from Fahey, and made unauthorized and unsuitable trades in the account of Carl Hughes. Claimants further alleged that Respondents made an unauthorized transfer of funds from the account of Martin Hughes, III. In addition, Claimants alleged that Respondent Stephen Schott misrepresented to Claimants that he would correct the improprieties that allegedly occurred in Claimants' accounts and would save Claimants harmless for any losses resulting from the subject trades.

Respondents maintained that all trades executed on behalf of Claimants, and any transfer of funds from Claimant Martin Hughes, III's account were specifically authorized by Claimants. Respondents also maintained that all investments recommended by Respondents were suitable for Claimants and that the characteristics of those investments were accurately represented. Furthermore, Respondents contended that Claimant's allegations

did not demonstrate a pattern of racketeering activity such as would entitle Claimants to relief under RICO. In addition, Respondent Stephen Schott denied representing to Claimants that he would save them harmless for any losses occasional by the subject transactions.

Finally, Respondent Shearson Lehman Hutton, Inc. ("Shearson") asserts a counterclaim against Claimant Fahey arising from an unsecured debit balance existing in Fahey's account.

RELIEF REQUESTED

Claimants seek an award of \$149,000.00 on behalf of Fahey, \$93,000.00 on behalf of Carl Hughes, \$3,000.00 on behalf of Martin Hughes, III, \$20,000.00 of miscellaneous damages on behalf of all Claimants, and unspecified attorneys fees and expenses. Additionally, Claimants ask that all such sums be trebled pursuant to the RICO Act. Respondents request that all claims against them be dismissed and that they be awarded their attorneys fees. In addition, Respondent Shearson requested approximately \$30,000.00 in damages on its counterclaim.

AWARD

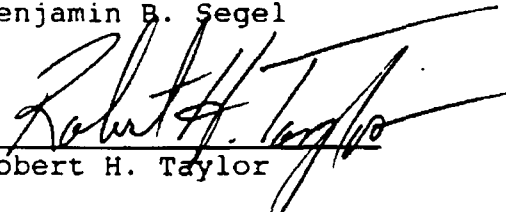
On August 29 and August 30, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the The Fahey Banking Company on May 4, 1989, by Carl F. Hughes on May 8, 1989 and by Martin Hughes, III on May 8, 1989. The Respondents did not execute submission agreements, however, they did submit answers and were represented by counsel. Pursuant to Section 12(a) of the Code of Arbitration Procedure, the presiding arbitrators exercised their jurisdiction over the Respondents. The hearing was held in Columbus, Ohio and consisted of five (5) sessions. A pre-hearing conference was held on June 20, 1990 and consisted of one session. The total prehearing sessions and hearing sessions conducted in this case was six (6) 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. Claimant's claims, and each of them, are resolved in favor of the Respondents, who are found to have no liability to Claimants.
2. Respondent Shearson's counterclaim is resolved in favor of Claimant Fahey, which is found to have no liability to Respondent Shearson.

3. The parties shall bear their respective costs, including attorney's fees;
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$1000.00 filing fee previously deposited by the Claimant. Claimants, jointly and severally, are assessed one third (1/3) of all forum fees herein. Respondent Shearson is assessed one third (1/3) of all forum fees herein. Respondent Stephen Schott is assessed one third (1/3) of all forum fees herein. Said forum fees, in the total amount of \$6000.00, are payable to the NASD, Inc. through its staff counsel in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATORS CONCURRING

Benjamin B. Segel



Robert H. Taylor

Robert L. Fox

October _____, 1990

3. The parties shall bear their respective costs, including attorney's fees;
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ARBITRATORS CONCURRING

Benjamin B. Segel

Robert H. Taylor



Robert L. Fox

October 12, 1990