

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Neil R. Gore
Sandra S. Gore

Claimants

vs.

Shearson Lehman Brothers, Inc.
Elias Argyropoulos

Respondents

AWARD

NASD NO. 89-01493

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on May 19, 1989. Claimants alleged: failure to execute, lack of suitability and misrepresentation in the purchase, sale and/or trading of common stock in Entertainment Marketing, Inc. (EMI), Nova Pharmaceutical Corp. (NOVA) and Thermedico, Inc. (TI). Claimants also alleged violations of New York Stock Exchange Rule 405, National Association of Securities Dealers Rules of Fair Practice, Article III, Section 2, and Securities and Exchange Act of 1933, Rule 10(b)5 with respect to the same common stock.

Respondents denied the substantive allegations and asserted the affirmative defense that claimants received written confirmations of all investments in their account and failed to make any timely objections, resulting in ratification.

Respondents filed a counterclaim for failure of claimants to pay a debit balance.

DAMAGES AND RELIEF REQUESTED

Claimant requested:

1. Compensatory damages of \$291,324.00;
2. Interest at the rate of 10% per annum on the funds placed in the securities account;
3. Costs and attorneys' fees.

Respondent, in their counterclaim, requested:

1. Compensatory damages of \$113,968.00; and
2. Pre-judgment interest from November 2, 1987 to present.

DAMAGES AND RELIEF AWARDED

On August 16 and September 25, 26 and 27, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on October 16, 1989. Respondents answered and appeared at the hearing, verbally submitting to the jurisdiction of the NASD and represented that submission agreements would be forwarded. They are subject to NASD jurisdiction also in accordance with Section 12 of the NASD Code of Arbitration Procedure. The hearing was conducted in Los Angeles, California and lasted six 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. All claims are dismissed.
2. Claimant is liable for and shall pay to respondents Shearson Lehman Hutton the sum of \$113,968.00
3. Claimant is liable for and shall pay to respondent Shearson Lehman Hutton interest on the above amount (\$113,968.00) at the rate of eight (8%) per cent from November 2, 1987 to August 16, 1990.
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 \$750.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators. In addition, Claimants are assessed fees of \$3,500.00 minus \$750.00 already paid and Respondent Shearson Lehman Hutton, Inc., only, is also assessed fees of \$1,000.00, representing forum fees payable to the NASD, Inc.

ARBITRA

DATE SERVED: 11/06/90

Willard P. Hovey, Jr.

ARBITRATORS CONCURRING

DATE SERVED: 11/06/90

Gordon L Klein
Gordon L. Klein

Willard P. Hovey, Jr.

George N. Roy

ARBITRATORS CONCURRING

DATE SERVED: 11/06/90

George N. Roy
Jr.