

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between  
John A. Mikula

Claimant(s)

vs.

David Capin

vs.

Jonathan Elyachar and E.F. Hutton and  
Co., Inc. a/k/a Shearson Lehman  
Hutton, Inc.

Respondent(s)

**NOTICE OF  
ARBITRATION  
AWARD  
89-01637**

**CASE SUMMARY**

Claimant(s) John A. Mikula alleged that Respondent(s) David Capin committed and unauthorized transfer with regard to Claimant's account held with Respondent. Respondent David L. Capin denied Claimant's allegations and filed a third party claim against both Jonathan Elyachar and Shearson Lehman Hutton, Inc. for any liability arising out of this proceeding.

**RELIEF REQUESTED**

Claimant(s) John A. Mikula requested damages of Six Thousand Seven Hundred Dollars and Eighty Three Cents (\$6,700.83). Respondent(s) requested dismissal of claim and costs.

**AWARD**

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure ("Simplified Arbitration") a single arbitrator, William C. Zysk, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant(s) on June 1, 1989 and not by the Respondents as required by Section 12(a) of the NASD, Inc. Code of Arbitration Procedure;

And, that the Arbitrator, having considered the proofs of the Parties, including any additional documentary submissions of the Claimant(s) and the Respondent(s) has decided and determined in full and final resolution of the issue submitted for determination as follows:

That the claim of the Claimant is hereby dismissed in its entirety, and;

That the third party claim by the Respondent David Capin against Jonathan Elyachar and Shearson Lehman Hutton, Inc. is hereby dismissed in its entirety.

The parties shall each bear their respective costs including attorney's fees.

The \$200.00 filing fee previously deposited with the NASD, Inc. by the Claimant(s) shall be refunded to the Claimant by the Respondent Capin.

March 26, 1990