

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Hedvig M. Peterson

Claimant

and

Shearson Lehman Hutton, Inc.

Respondent

A W A R D
89-01826

CASE SUMMARY

Claimant, Hedvig Peterson ("Peterson") alleged as follows:

1. Peterson is a 100 year old widow with impaired vision. She liquidated her savings account and certificates of deposits and transferred the proceeds therefrom into an account at E.F. Hutton ("Hutton") under the control of Daniel Hasbrook ("Hasbrook"), a registered representative employed by Hutton.

2. Peterson relinquished control of her account to Hasbrook who traded the account on a discretionary basis and without the authorization of Peterson.

3. Hasbrook churned Peterson's account, made unsuitable investments for Peterson and misrepresented certain material facts regarding her account and the securities traded therein.

4. Hasbrook left Hutton's employ on or about February 1, 1988, and began to work for Dean Witter, where Hasbrook continued his pattern of misconduct regarding Peterson's account. If Hutton had properly notified Peterson of Hasbrook's misconduct in February of 1988 she could have avoided her losses at Dean Witter.

5. Peterson's account was traded on margin by Hasbrook without Peterson's approval and contrary to Hutton's procedures. Prior to seeking legal counsel, and with the help of friends, Mrs. Peterson wrote to Shearson and asked that Shearson compensate her for the losses caused by Hasbrook and Hutton. Shearson refused to pay her anything and falsely told her that they had made an investigation and there was "no basis" for Mrs. Peterson to assert any claim against Shearson.

PROCEDURAL SUMMARY

On June 23, 1989 Peterson filed her claim against Shearson with the NASD. On July 24-26, 1989 and August 16 and 18, 1989 the undersigned arbitrators heard the controversy between the parties pursuant to the submission to arbitration executed by Peterson on June 22, 1989 and pursuant to the Agreement to Expedited Arbitration executed by the attorney's for Shearson and Peterson on June 22, 1989. The hearing was held in ten sessions in Phoenix, Arizona.

DAMAGES AWARDED

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing finds in final consideration of all of the issues submitted, that the Respondent, Shearson Lehman Hutton, Inc. is hereby liable to the Claimant, Hedvig M. Peterson and shall pay damages as described in the following paragraphs:

1. Compensatory damages in the amount of Two Hundred and Forty-Nine Thousand Two Hundred and Fifty-Four Dollars and Nine Cents (\$249,254.09).

2. Punitive damages in the amount of One Million Dollars (\$1,000,000). The assessment of punitive damages was awarded after the panel considered the parties' arguments, their case law and statutory authority addressed in their briefs. The panel particularly considered A.R.S. Sec. 84-1991, Bunar v. Dean Witter Reynolds, Inc., 835 F.2d 1378 (11th Cir. 1988), Willoughby Roofing and Supply Co. v. Kajuna International, Inc., 598 F.Supp. 353 (N.D. Ala. 1984), aff'd 776 F.2d 269 (11th Cir. 1985), Nye v. Blyth Eastman Dillon and Co., 588 F.2d 1189 (8th Cir. 1970), Aldrich v. Thompson McKinnon Securities, Inc., 756 F.2d 243 (2d Cir. 1985), Rawlings v. Apodca Planning Services, Inc., 151 Ariz. 149, 726 P.2d 565 (1986), Miley v. Oppenheimer and Company, Inc., 637 F.2d 318 (5th Cir. 1981), Hall v. Security Planning Services, Inc., 462 F.Supp. 1058 (D. Ariz. 1978), Hunter Contracting Co. v. Sanner Contracting Co., 16 Ariz. App. 239, 492 P.2d 837 (1968), and Mihara v. Dean Witter and Co., 619 F.2d 814 (9th Cir. 1980). The assessment of punitive damages was awarded after the panel considered the parties arguments and their briefs.

3. The parties shall bear their own respective costs including attorneys' fees.

4. Pursuant to Section 43 of the NASD Code of Arbitration, Peterson is assessed \$3,750 which includes the \$750.00 previously deposited with the NASD and Shearson is assessed \$3,750 as forum fees which are payable to the NASD through its staff counsel.

5. The panel hereby finds that Shearson is not liable for any loss Peterson sustained while her account was at Dean Witter.

OTHER MATTERS

Shearson's request that the panel reconsider its ruling on not allowing Shearson's offer of settlement letter is hereby denied.

Arbitrators Concurring

Dated: _____ /S/ _____
Pamela Tonn-Johnson, Esq.
Presiding Chairman

Dated: _____ /S/ _____
Robert Daniel Boone

Dated: _____ /S/ _____
Audria Sullivan