



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant(s)

Ellis Elmore

89-02875

Name of Respondent(s)

Shearson Lehman Brothers  
The Robinson-Humphrey Company Inc.

REPRESENTATION

For Claimant: Frank S. Holleman, III, Esq., of Wyche Burgess Freeman & Parham, P.A.

For Respondent: Linda Yarden, Esq., of Shearson Lehman Brothers.

CASE INFORMATION

Statement of Claim filed: October 17, 1989.

Claimant's Submission Agreement signed on: November 27, 1989.

Respondents, Shearson Lehman Brothers and Robinson-Humphrey Company, Inc.  
Submission Agreement signed on: January 11, 1990.

HEARING INFORMATION

Hearing Date: January 25, 1991 - Two (2) Sessions

Hearing Date: October 30, 1991 - Two (2) Sessions

Hearing Date: October 31, 1991 - Two (2) Sessions

Hearing Date: November 1, 1991 - Two (1) Session

Total Number of Sessions: Seven (7) Sessions

Hearing Location: Charlotte, N.C.

AWARD-#89-02875

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

CASE SUMMARY

Claimant, Ellis A. Elmore alleged that Respondents, Shearson Lehman Brothers and The Robinson-Humphrey Company, Inc. were negligent, breached their fiduciary duty and breached their contract with the Claimant by failing to exercise due care in selling 72,711 shares of Claimant's Southern Net Stock. Claimant alleged that Respondents should not have subjected his sale to Rule 144, and in any event the Respondent's confusion held up the sale of his securities and caused him to suffer damages due to the decline in value of his securities.

Respondents maintained that the Claimant's stock was subject to Rule 144, and that they processed the sale in an orderly manner. Respondents further maintained that any delay in processing and completing the sale was the fault of the issuer's law firm's failure to respond to respondents' Rule 144 inquiries.

RELIEF REQUESTED

Claimant requested damages of \$580,394.00 plus interest.

Respondents requested dismissal of the Claim, and that respondents be awarded costs and attorneys' fees.

AWARD

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

The arbitrators, having considered the pleadings, the testimony and the evidence presented at the hearing, have determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Shearson Lehman Brothers and The Robinson Humphrey Company, Inc., are jointly and severally liable and shall pay to Claimant, Ellis A. Elmore, the sum of Eight Hundred and Two Thousand, Four Hundred Eighty One Dollars and No Cents \$802,481.00. Included in this amount is \$229,712.00 awarded as interest;
2. The parties shall each bear their respective costs, including attorneys' fees;

AWARD-#89-02875

FORUM FEES

3. Pursuant to Section 43 of the Code of Arbitration Procedure, the following forum fees are assessed:

7 sessions X \$1,000.00 = \$7,000.00.

Forum fees assessed against:

1- Claimant, in the amount of \$3,500.00; however, Claimant may use its \$1,000.00 hearing session deposit to offset part of this fee, thereby, the amount due and owing by Claimant equals \$2,500.00;

2- Respondents, Shearson Lehman Brothers and The Robinson Humphrey Company, Inc, jointly and severally, in the amount of \$3,500.00.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name	Public/Industry
/s/ ----- Gary L. Tidwell, Esq.	----- Public/Chairman
/s/ ----- Stan Campbell	----- Industry/Panelist
/s/ ----- Frederick H. Temple	----- Public/Panelist

DATED BY NASD

Date of Decision: DECEMBER 4, 1991