

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	x
	x
Wayne Mercier	x
Claimant	x
	x CASE NO.
vs.	x 89-02934
	x
James Briggs, Peter Sweeney, and	x AWARD
Shearson Lehman Hutton, Inc.	x
	x
Respondents	x
	x

CASE SUMMARY

Claimant, Wayne Mercier ("Mercier"), alleged that Respondents, Shearson Lehman Hutton ("Hutton"), James Briggs ("Briggs") and Peter Sweeney ("Sweeney"), breached their fiduciary duty as his stockbrokers in that Briggs failed to carry out his instructions to use a stop limit order on margin transactions in common stock, and that Sweeney failed to carry out his instructions to use a stop limit order in his commodities account. Mercier also alleged that the Respondents knowingly made misrepresentations and omissions in connection with the recommendation of certain common stocks.

Hutton and Briggs contended they always acted in good faith, and that Mercier was an experienced investor who was at all times familiar with the status and nature of his account and that he never requested a stop limit order on any of his transactions. Hutton and Briggs also made a motion to dismiss in which they alleged that the NASD had no jurisdiction to hear Mercier's claims as they concern his commodities account.

Sweeney denied the allegations made against him and contended he always acted properly.

RELIEF REQUESTED

Mercier requested actual damages of \$39,963.17, plus punitive damages, costs and attorney's fees. Hutton and Briggs requested dismissal of the Statement of Claim, plus costs and attorneys' fees. Sweeney requested dismissal of all claims made against him.

AWARD

On November 14, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant Wayne Mercier on October 12, 1989, by Respondent James Briggs on December 8, 1989, by Respondent Shearson Lehman Hutton, Inc. on December 19, 1989, and not by Respondent Peter Sweeney as is required by Section 12 of the NASD's Code of Arbitration Procedure. The initial claim was filed on October 19, 1989. The hearing was conducted at the offices of the National Association of Securities Dealers, Inc. in New York City, NY, and consisted of two(2) hearing 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:

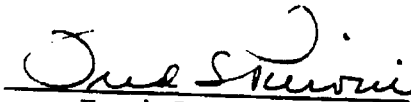
1. Pursuant to the by-laws of the National Association of Securities Dealers, Inc., the arbitrators determined that Respondent Peter Sweeney was required to submit to this arbitration and is, therefore, bound by this panel's rulings and determinations.
2. At the hearing, Hutton and Briggs withdrew their motion to dismiss Mercier's commodities claims.
3. All claims against Respondent Shearson Lehman Hutton, Inc. be and hereby are dismissed in their entirety.
4. All claims against Respondent James Briggs be and hereby are dismissed in their entirety.
5. All claims against Respondent Peter Sweeney be and hereby are dismissed in their entirety.
6. The parties each shall bear their respective costs including attorneys' fees.
7. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$400.00 filing fee previously deposited by the Claimant, and the Respondent Shearson Lehman Hutton, Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of Four Hundred Dollars and No Cents (\$400.00), as costs of the two(2) hearing sessions conducted in this matter.

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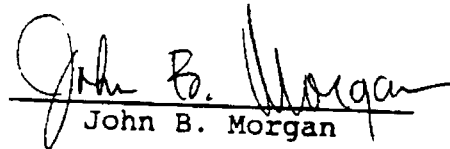
CONCURRING ARBITRATORS



Constantine N. Katsoris



Fred S. Pieroni



John B. Morgan

Dated: November 30, 1990