

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	)	
Mary Ross	)	Claimant
vs.	)	
Shearson Lehman Hutton, Inc.	)	
and Larry Ennis	)	Respondents
		AWARD
		CASE NO. 89-03055

**SUMMARY OF ISSUES**

This case was filed with the National Association of Securities, Dealers, Inc. ("NASD") on November 1, 1989. Claimant alleged that the recommended investments in various mutual funds were not suitable for her stated investment objectives, that Respondents misrepresented the risks associated with the individual funds, and that Respondents failed to disclose that Claimant's monthly income from her investment was partially comprised of distributions of principal.

Respondents denied the allegations and maintained that the Shearson Family of Mutual Funds was recommended to Claimant as suitable for her investment objectives, that Claimant was given prospectuses and information on the individual funds which detailed the risks associated with each and that Claimant made the investment decision in which fund to purchase, and that the periodic distributions of principal was clearly indicated on Claimant's monthly statements and was necessary in order to maintain the monthly income Claimant wished to receive from her account.

**DAMAGES AND RELIEF REQUESTED**

Claimant requested damages of \$129,662.00 for loss of principal, interest at the legal rate of 10%, attorney's fees and costs. Claimant also requested, as amended at the hearing, unspecified punitive damages.

Respondents requested dismissal of the claim in its entirety.

**DAMAGES AND RELIEF AWARDED**

On September 26 and 27, 1990, the undersigned arbitrators heard the controversy between the parties, as set forth in submissions to arbitration signed by Claimant on October 17, 1989 and by Respondents Shearson Lehman Hutton, Inc. on December 26,

1989 and Larry Ennis on December 1, 1989. The hearing was conducted in San Francisco, California and lasted five (5) 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. Respondents Shearson Lehman Hutton, Inc. and Larry Ennis are hereby jointly and severally liable for and shall pay to Claimant the sum of Ninety Two Thousand Dollars and Zero Cent (\$92,000.00) representing actual damages plus interest.
2. The claims for attorney's fees and punitive damages are dismissed.
3. The parties shall each bear their respective costs including attorneys' fees.
4. In accordance with Section 43 of the NASD Code of Arbitration Procedure:
  - a) The NASD shall retain the \$750.00 filing fee previously deposited by Claimant;
  - b) Respondents are jointly and severally assessed the sum of \$750.00 representing the filing fee and shall reimburse Claimant directly; and
  - c) Respondent Shearson Lehman Hutton, Inc. is assessed the sum of \$3,000.00 representing forum fees to be paid to the NASD directly.

OTHER ISSUES

The parties stipulated to the execution and service of the award in counterpart copies.

DATE SERVED: 10/31/90

  
Leonard Greenwold