

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

EDWARD and DIANA ANDERSON

Claimant

and

ROBERT RACUSEN and SHEARSON
LEHMAN HUTTON, INC.

Respondents

CASE NO. 89-03473

CASE SUMMARY

In a Statement of Claim filed with the NASD on or about December 5, 1989, Claimants Edward and Diana Anderson ("the Andersons") alleged that they purchased two collateralized mortgage obligations (CMOs) for a total of \$100,000 in early July 1987 through Respondents Shearson Lehman Hutton, Inc. ("Shearson") and Robert Racusen ("Racusen"). The Andersons alleged that Racusen said there was no commission charge and that the principal of \$100,000 would be returned along with 11.44% monthly interest over the next four years. The Andersons also alleged that they did not receive the proper interest rate for the first four months and that after 8 months they found out that there was a \$6,400.00 commission charged on their investment.

In their joint statement of answer filed with the NASD on or about February 12, 1990, Shearson and Racusen alleged that the Andersons were never told there would be no commission charge on the investment. Shearson and Racusen also alleged in their answer that the Andersons were specifically told prior to the investments that the difference between the bid and offer prices would be the mechanism for compensation of the brokerage firm.

RELIEF REQUESTED

The Andersons requested \$6,400.00 plus 11.44% interest from July of 1987. Shearson and Racusen requested dismissal of the claim in its entirety.

OTHER ISSUES

During closing argument, Mr. Anderson amended his claim for relief to request an alternative form of recovery. Citing the Illinois Securities Law of 1953, Mr. Anderson asked in the alternative that he be granted rescission of his investment. Respondents' counsel did not object to this alternative request for relief and stated this fact for the record. The arbitrator accepted this amended claim for relief.

AWARD

On Friday, August 3, 1990 in Chicago, Illinois during a hearing lasting one session, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed on November 28, 1989 by Claimants Edward and Diana Anderson on January 24, 1990, by William A. Hohauser on behalf of Respondent Shearson Lehman Hutton, Inc. and on February 9, 1990 by Respondent Robert M. Racusen.

As the undersigned arbitrator, I have considered the pleadings, the testimony, and the evidence presented at the hearing, and have decided in full and final resolution of the issues submitted for determination as follows:

1. The claim asserted against Shearson and Racusen by the Andersons shall be and is hereby dismissed in its entirety;
2. The parties shall each bear their respective costs and expenses including any attorney's fees incurred in this matter; and
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$200.00 filing fee previously deposited with the NASD by the Claimants and Shearson is assessed and shall pay to the NASD the sum of \$200.00 as forum fees.

Presiding Chair

Dated: 8/3/90

151 Joseph O. Kostner
Joseph O. Kostner, Esq.