

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Hiram Thomas Hinkley, Jr. Claimant)	
vs.)	AWARD
Shearson Lehman Hutton, Inc.)	
Michael Frager)	
Jack Frager Respondents)	CASE NO. 90-00279

SUMMARY OF ISSUES

Claimant alleged Respondents misrepresented the nature of, and risks involved in, the investments in common stocks and options made in his account; engaged in unsuitable trading; and breached their fiduciary duty to him.

Respondents denied all allegations brought by Claimant, and asserted that Claimant was fully informed of all aspects of potential investments and authorized all trades. Respondents asserted that Claimant's account value declined because of Claimant's continued cash withdrawals and gold card charges made against the account, and that certain losses in the account are attributable to the October 1987 market crash and Claimant's failure to deposit cash to meet margin calls engendered by the crash.

DAMAGES AND RELIEF REQUESTED

Claimant requested compensatory damages of \$130,000.00 (less any offsets shown by Respondent Shearson Lehman Hutton), emotional distress damages of \$200,000.00, and punitive damages of \$500,000.00.

Respondents requested dismissal of all claims and an award of attorney's fees and costs of arbitration.

DAMAGES AND RELIEF AWARDED

This claim was filed with the NASD on January 25, 1990. On October 4 and 5, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on December 16, 1989, by an authorized representative of Shearson Lehman Hutton on July 2, 1990, by Michael Frager and Jack Frager on October 15, 1990. The hearing was conducted in San Diego, California and lasted three

(3) 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 as follows:

1. All claims for compensatory damages brought by Claimant are dismissed.
2. Claimant's claim for emotional distress damages is dismissed.
3. Claimant's claim for punitive damages is dismissed.
4. The parties shall each bear their respective costs including attorneys' fees.
5. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$1,000.00 filing fee previously deposited by Claimant as an assessment of forum fees. In addition Respondents Michael Frager and Jack Frager are also assessed forum fees of \$1,000.00 each, payable to the N.A.S.D.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

DATE SERVED: 11/20/90

Franklin Allen

James Gormsen



Michael A. Bowers