

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
Ton Conley)	
)	
Claimant)	
)	AWARD
vs.)	
)	NASD # 90-00396
Shearson Lehman Hutton, Inc.)	
Richard J. Brizzolara, Jr.)	
)	
Respondents)	

SUMMARY OF ISSUES

Claimant alleged Respondents made false and misleading statements regarding the risks of trading in options, were negligent with respect to allowing such statements to be made, committed actual and constructive fraud by failing to explain straddle trading, and breached their fiduciary duty to Claimant by guaranteeing the profitability of certain speculative investments.

Respondents denied all allegations and asserted that Claimant's trading met his stated financial and investment objectives; i.e., short-term, speculative, take-over stocks; that Claimant at all times controlled his account and made all investment decisions; that Claimant was a sophisticated businessman with previous speculative trading experience.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages, including punitive damages, of \$77,468.00.

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 February 6, 1990. On December 4, 1990, the undersigned arbitrators heard the controversy between the parties pursuant to submissions to arbitration signed by Claimant on January 29, 1990, by an authorized representative of Shearson on March 28, 1990, and by Richard Brizzolara on May 9, 1990. The hearing was conducted in San Francisco, California and lasted two (2) 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. All claims brought by Claimant are dismissed.
2. The parties shall each bear their respective costs including attorneys' fees.
3. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$500.00 filing fee previously deposited by the Claimant as an assessment of forum fees. In addition, Respondents are jointly and severally assessed forum fees of \$500.00.

OTHER ISSUES

None.

ARBITRATORS CONCURRING

DATE SERVED: 12/18/90