

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Herbert and Ruth Levitt :
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 Claimant :
 v. : **AWARD**
 : **#90-00408**
 Shearson Lehman Hutton, Inc. :
 And Sheldon J. Wilshinsky :
 :
 Respondents :
 :

CASE SUMMARY

The Statement of Claim in this matter was filed with the N.A.S.D., Inc. on February 8, 1990.

Claimants, Herbert & Ruth Levitt alleged that Respondents, Shearson Lehman Hutton, Inc. and Sheldon J. Wilshinsky breached their fiduciary duty toward Claimants by disobeying Claimants' investment objective which was that of conservative types investments which would preserve their capital while providing them with a moderate rate of return. Claimant alleged that instead, respondents invested their funds in speculative limited partnerships and other securities which were not in conformity with Claimants' goals, that Respondents' negligence and improper conduct resulted in losses to Claimants.

Respondents, Shearson Lehman Hutton, Inc. and Sheldon J. Wilshinsky, denied all allegations of wrong-doing and maintained that every trade in Claimants' account was approved by either one or both Claimants.

RELIEF REQUESTED

Claimants requested an award in the amount of \$10,837.26 jointly and severally against Respondents plus interest, costs and disbursements.

Respondents requested dismissal of the Claim.

AWARD

On October 17, 1990, the undersigned arbitrator heard the controversy between the Parties as set forth in submissions to arbitration signed by the Claimants, Herbert and Ruth Levitt on February 5, 1990 and by Respondent, Shearson Lehman Hutton, Inc. on March 28, 1990 and by Respondent, Sheldon Wilshinsky, on April

6, 1990.

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The hearing was held in New York, New York and consisted of two (2) sessions. The arbitrator, 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. The Claims of the Claimant be and hereby are dismissed in all respects;
2. The Parties shall each bear their respective costs, including attorneys' fees;
3. 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;
4. The Claimant is assessed forum fees in the amount of \$400.00 payable to the NASD, Inc. through its staff administrator in accordance with Section 43 of the Code of Arbitration Procedure.

/s/

Allen Kilik, Esq.
(Sole Arbitrator)

Dated by the NASD: November 8, 1990