

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

LEWIS O. WOODWARD, JR.

Claimant

and

E.F. HUTTON & COMPANY, INC.; SHEARSON
LEHMAN HUTTON, INC. and LEROY JACK NICHOLS

Respondents



REPRESENTATION OF PARTIES

Lewis O. Woodward, Jr. was represented by Barry C. Barnett, Esq. of Susman Gogfrey, Dallas, Texas.

Shearson Lehman Brothers, Inc. and Leroy Jack Nichols were represented by J. Hamilton Rial, III, Esq. of Locke Purnell Rain Harrell, Dallas, Texas.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about March 1, 1990, Lewis O. Woodward, Jr. ("Claimant") alleged that Shearson Lehman Brothers, Inc. f/n/a E.F. Hutton & Company, Inc. and Shearson Lehman Hutton, Inc. and Leroy Jack Nichols ("Respondents") breached their fiduciary duties, violated Rule 10b-16 and violated the Deceptive Trade Practices Act, breached their duty of good faith and fair dealing to Claimant, were negligent and grossly negligent in handling the Claimant's account. Specifically, Claimant alleged that Respondents wrongfully liquidated certain positions in Claimant's accounts including shares of American Express, Coca Cola Enterprises, Data General Corp., Coca Cola Co., Liz Claiborne, Inc., Southwest Airlines, USX Corp., Valero Eng. Pfd., Unocal, Storage Technology, Schlumberger, Public Service of N.M., Lotus Development, Halliburton Co., Genentech, Inc., Carnival Cruise Line, Anheuser-Busch, Bethlehem Steel Corp., Baker-Hughes Ind., Amax, Inc., Gulf States Utilities, and Mesa Ltd. Ptn.

In their joint Answer filed with the NASD on or about June 5, 1990, Respondents denied any wrongful conduct and specifically stated that the liquidation of the account resulted from Claimant's inability to meet margin calls issued in the wake of the October, 1987 market crash. Respondents stated that they acted well within their legal rights in responding to the situation. Respondents asserted the following affirmative defenses: failure to mitigate, waiver, estoppel, ratification, contributory fault and there are no causes of action available to Claimant for the alleged violations of Rule

10(b)16 and the Texas Deceptive Trade Practices Act.

RELIEF REQUESTED

Claimant requested an award of \$350,563.67 in actual damages, treble damages under the Deceptive Trade Practices-Consumer Protection Act; pre award interest; post award interest; costs and attorney's fees.

Respondents requested that the Statement of Claim be dismissed and that they be awarded their costs and reasonable attorney's fees.

PROCEDURAL MATTERS

On Tuesday, June 18, 1991 and Wednesday, June 19, 1991 in Dallas, Texas during a hearing lasting a total of three (3) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on March 14, 1990 by Claimant Lewis O. Woodward, Jr. on May 24, 1990 by William A. Hohauser on behalf of Respondent Shearson Lehman Hutton, Inc.

Respondent Leroy Jack Nichols did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD.

AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Shearson Lehman Brothers, Inc. f/k/a E. F. Hutton, Inc. and Shearson Lehman Hutton, Inc. shall be and hereby is liable for and shall pay to the Claimant Lewis O. Woodward, Jr. the sum of Ninety Three Thousand Fifty Dollars (\$93,050.00) which sum includes an award of punitive damages. In awarding punitive damages, the panel has considered the laws of the State of Texas and the legal authorities cited by the parties;

2. Respondent Shearson Lehman Brothers, Inc. shall be and hereby is liable for and shall pay to the Claimant Lewis O. Woodward, Jr. the sum of Fifteen Thousand Dollars (\$15,000.00) as attorneys fees. In awarding attorneys fees, the panel has considered the laws of the State of Texas and the legal authorities cited by the parties;

3. All claims against Leroy Jack Nichols shall be and hereby are dismissed;

4. Respondents shall bear their own costs, expenses and attorneys fees; and

5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimant. Respondent Shearson Lehman Brothers, Inc. shall pay to the NASD the sum of \$2,250.00 and shall reimburse the Claimant the sum of \$750.00 as forum fees. The NASD shall retain any deposits made by the parties pursuant to Section 30 of the Code of Arbitration Procedure, if any.

Dated:

July 22, 1991

David Moore
David Moore, Esq.
Presiding Chair
Public Arbitrator

Henry L. Sisk PhD.
Public Arbitrator

Lewis B. Fisher, Jr.
Industry Arbitrator

Date Served by NASD 8-16-91

4. Respondents shall bear their own costs, expenses and attorneys fees; and

5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimant. Respondent Shearson Lehman Brothers, Inc. shall pay to the NASD the sum of \$2,250.00 and shall reimburse the Claimant the sum of \$750.00 as forum fees. The NASD shall retain any deposits made by the parties pursuant to Section 30 of the Code of Arbitration Procedure, if any.

Dated:

David Moore, Esq.
Presiding Chair
Public Arbitrator

7/30/91

Henry L. Sisk

Henry L. Sisk PhD.
Public Arbitrator

Lewis B. Fisher, Jr.
Industry Arbitrator

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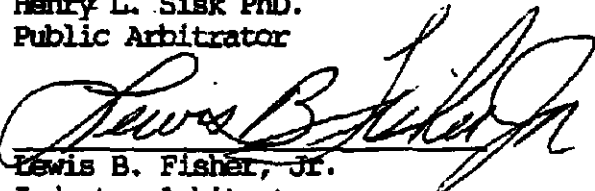
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Dated:

David Moore, Esq.
Presiding Chair
Public Arbitrator

Henry L. Sisk PhD.
Public Arbitrator

7/19/91



Lewis B. Fisher, Jr.
Industry Arbitrator