

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

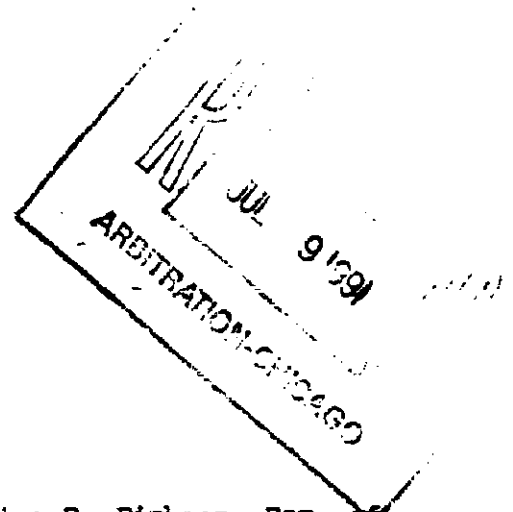
Name of Claimant(s)

Arla M. Sills

90-00743

Name of Respondent(s)

E.F. Hutton & Company, Inc.
Kidder, Peabody & Co., Incorporated
Larry Milliken



REPRESENTATION

Claimant Arla M. Sills was represented by Dwaine D. Pickens, Esq. of Scottsdale, Arizona. Respondent E.F. Hutton & Co., Inc. was represented by Elizabeth Beasley of Kessal Young & Logan of Los Angeles, California. Kidder Peabody was represented by Shiela A. Chervin, Esq. of Kidder Peabody & Co., Inc. of New York, New York.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about February 27, 1990, Claimant Arla M. Sills ("Sills") alleged that she was placed into unsuitable tax shelter and real estate limited partnerships. Sills alleged that Respondent Larry Milliken ("Milliken") disregarded Sills' investment objectives which were protection of assets and generation of as much income as possible. Sills alleged she was not interested in speculative investments. Sills alleged that Milliken placed her investment monies in such issues as E.F. Hutton Indian Wells Partnership, Silverscreen II Partnership, E.F. Hutton Commercial and other investments in annuities.

In a Statement of Answer filed with the NASD on or about May 17, 1990, Hutton and Milliken denied the allegations of the claim and asserted that Sills ratified and approved all transactions in her account. Sills allegedly was given the prospectus for each product prior to her investments. Shearson and Milliken asserted affirmative defenses including, but not limited to, estoppel, laches, ratification and assumption of risk.

In a Statement Answer filed with the NASD on July 22, 1990, Kidder Peabody adopted the answer submitted by Shearson and Milliken and stated that the losses, if any, that Sills suffered were attributable to Sills' own business judgment since she participated in the discussion regarding the purchases of the securities and ratified the purchases through her silence.

RELIEF REQUESTED

Sills requested damages of \$100,000 plus interest therein at the rate of 12% per annum, reasonable attorney's fees and costs of the arbitration. Shearson and Milliken requested dismissal of the claim in its entirety. Kidder Peabody also requested dismissal of the claim in its entirety.

OTHER ISSUES

Prior to the hearing on May 16, 1991, Sills settled her dispute with Kidder Peabody. Accordingly, the case went forward as Sills v. Shearson and Milliken. Additionally, the NASD had previously dismissed Jane Doe Milliken as a party to this proceeding because she was a non-registered person and not subject to the jurisdiction of this forum unless she voluntarily submitted. The panel reaffirmed this decision at the beginning of the hearing on May 16, 1991.

PROCEDURAL MATTERS

On May 16, 1991 in Scottsdale, Arizona during a hearing lasting two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on February 22, 1990 by Claimant Arla M. Sills, on August 27, 1990 by William A. Hohauser on behalf of Respondent Shearson Lehman Hutton, Inc. and on June 22, 1990 by Sheila A. Charvin on behalf of Respondent Kidder Peabody & Co., Inc.

Respondent Larry Milliken 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 be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals 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. E.F. Hutton (n/k/a Shearson Lehman Brothers) is liable for and shall pay to Sills the sum of Ten Thousand Three Hundred Ninety Dollars and Thirty Five Cents (\$10,390.35);

2. Milliken is liable for and shall pay to Sills the sum of Ten Thousand Three Hundred Ninety Dollars and Thirty Five Cents (\$10,390.35);

3. No interest is awarded on the above sum and therefore the total award to Sills shall be \$20,780.70;

4. The parties shall each bear their own costs, expenses and attorney's fees incurred in this matter; and

5. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$150.00 claim filing fee and refund the hearing session deposit in the amount of \$350.00 previously deposited with the NASD by the Claimant. Shearson is assessed forum fees of \$1000.00 and shall reimburse the Claimant directly for her \$150.00 claim filing fee.

Dated: _____

William Howard
Presiding Chair
Public Arbitrator

Dated: 7/6/91

Robert C. Hubbard
Robert C. Hubbard
Public Arbitrator

Dated: _____

Gary Marby
Industry Arbitrator