

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

N. Malte Molin
Margaret W. Molin

Claimants

vs.

Shearson Lehman Hutton, Inc.
Charles Cabrera
Don Dalis

Respondents

AWARD

NASD NO. 90-00920

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on March 29, 1990. Claimant alleged the unauthorized purchase of Lord Abbett mutual fund.

Respondents denied all material allegations of the claim and alleged the following affirmative defenses: 1. laches; 2. failure to state a claim upon which relief can be granted; 3. alleged losses proximately caused by claimants' or third party's own conduct or negligence; 4. failure to mitigate; 5. respondent Shearson Lehman Hutton (Shearson) at all times maintained adequate supervision and acted in good faith; 6. Claimant ordered, approved, authorized and ratified all actions and transactions; 7. estoppel; 8. assumption of risk; 9. claimants failed to use due diligence in handling their account; 10 waiver; and 11. unclear.

DAMAGES AND RELIEF REQUESTED

Claimants requested compensatory damages of \$13,576.20.

DAMAGES AND RELIEF AWARDED

On October 30, 1990, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants on March 23, 1990 and by Respondent Shearson on June 26, 1990. Respondents Cabrera and

Dalis did not file submissions agreement but did file an Answer and are subject to the jurisdiction of the NASD in accordance with Section 12 of the NASD Code of Arbitration Procedure. The hearing was conducted in San Diego, California and lasted two 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 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 \$400.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators.

ARBITRATOR CONCURRING

DATE SERVED: 11/20/90



William R. Newsome