

N.A.S.D. AWARD  
NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Don Schiff

90-01374

Name of Respondent(s)

Shearson Lehman Hutton, Inc.

Mark Steffan

Heard before:

Name

George Weiner

Ruth Lavell

Bonnie Moore

Public/Industry

Public

Public

Industry

REPRESENTATIVES

Claimant's counsel was David H. Tedder, Esq. of Pratter, Tedder and Graves. Respondents' counsel was John R. Loftus of Keesal, Young and Logan.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on May 25, 1990.

Claimant alleged that Respondents willfully and purposely violated numerous rules and regulations of various self regulatory organizations of the securities industry and that Respondents, through negligence, omissions and deceit, perpetrated a fraud through their business transactions with Claimant and his brokerage accounts with Respondents. Claimant alleged that the securities invested in were unsuitable, that Respondents refused to abide by Claimant's instructions, and that Respondents engaged in fraudulent sales practices and churned Claimant's account.

Respondents denied Claimant's allegations and denied that they are liable to Claimant for any damages. Respondents alleged that Claimant was presented with a variety of investment opportunities, that in each case a prospectus was delivered to Claimant, that the potential downside of the various investments was explained to Claimant, that Claimant opted for investments with the highest returns, and that all commission charges were disclosed to Claimant. Respondents asserted seven affirmative defenses.

RELIEF REQUESTED

Claimant requested a complete and total recovery of all loss transactions placed in the securities account with the Respondents, in addition to all actual costs incurred as a result of the operations of said account. In addition, Claimant requested compensation in the amount of 10% per annum on the funds placed in the securities account.

Respondents requested that the Statement of Claim be dismissed and that costs be assessed against Claimant.

AWARD

On May 29, 1991 in Los Angeles, California during a hearing lasting one session, the undersigned arbitrators convened to hear the controversy between the parties as set forth in submissions to arbitration signed by Claimant(s) on May 1, 1990, and signed by Joseph C. Pickard on August 28, 1990 on behalf of Shearson Lehman Hutton, Inc.. Claimant's counsel and Claimant Don Schiff, duly notified of the arbitration and hearing dates, did not appear at the arbitration hearing.

After considering the pleadings and motions to strike the claim submitted by Respondents prior to the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of Claimant is dismissed for the following reasons:
  - a) Respondents' motion to strike each and every claim of Claimant for the failure of Claimant to adequately respond to discovery requests made by Respondents and the failure of Claimant to comply with a discovery ruling of the arbitration panel, is granted.
  - b) Claimant failed to engage in the pre-hearing exchange pursuant to section 32(c) of the Code of Arbitration Procedure.
  - c) Claimant failed to appear at the arbitration hearing on May 29, 1991 after Claimant's counsel was duly notified of the arbitration and hearing date.
2. The parties shall each bear their respective costs including attorneys' fees.


FORUM FEES

In accordance with Section 43c of the NASD Code of Arbitration Procedure, the NASD shall retain the \$750 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators.

ors Signatures

\_\_\_\_\_

\_\_\_\_\_

  
Bonnie Moore

Date of Decision: \_\_\_\_\_