

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Fran Lalouche

Claimant

vs.

Shearson Lehman Hutton, Inc.

Dennis Schwary

Respondents

AWARD

NASD NO. 90-01590

SUMMARY OF ISSUES

This case was filed with the National Association of Securities Dealers, Inc. ("NASD") on June 5, 1990. Claimant alleged: lack of suitability in the purchase of securities in Lomas Financial Corp., (Lomas), St. Ives Labs., (St. Ives) RJR Nabisco, (RJR).

Respondents Shearson Lehman Hutton, Inc. (Shearson) and Dennis Schwary (Schwary) denied all substantive allegations and asserted the following affirmative defenses: 1) ratification; 2) culpable conduct on part of the claimant resulting in damages, if any; 3) culpable conduct on part of third parties resulting in damages, if any; 4) authorization/ratification by claimant and his agents; 5) assumption and acceptance of risk; 6) failure to mitigate damages; 7) waiver; 8) estoppel, laches and accord and satisfaction; 9) prayer for punitive damages violates Eighth and Fourteenth Amendment to the United States Constitution.

DAMAGES AND RELIEF REQUESTED

Claimant requested:

1. Compensatory damages of \$24,895.91;
2. Interest of \$4,225.04, amended by January 10, 1991 letter to \$6,396.00;
3. Punitive damages of \$5,000.00, amended by January 10, 1991 letter to \$10,000;
4. Costs.

DAMAGES AND RELIEF AWARDED

On January 24, 1991, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on May 31, 1990 and by Respondents Shearson on August 13, 1990 and by Dennis Schwary on July 16, 1990. 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. Respondents are jointly and severally liable for and shall pay claimant the sum of \$14,320.79 in compensatory damages, which includes all applicable interest through December 31, 1990 and is to bear interest at the rate of eight per cent per annum from January 1, 1991 until the award is paid in full.

2. All other claims, including the claim for punitive damages, are dismissed.

3. The parties shall each bear their respective costs including attorneys' fees.

4. 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, which shall be reimbursed to claimant by respondents, who are jointly and severally liable for said amount. In addition, respondents are jointly and severally also assessed fees of \$400.00 representing charges for forum fees payable to the NASD, Inc.

ARBITRATORS CONCURRING

DATE SERVED: 02/15/91


Lewis C. Brown

90-1590

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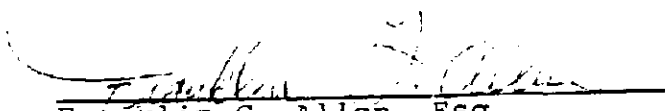
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ARBITRATORS CONCURRING

DATE SERVED: 02/15/91


Franklin G. Allen, Esq.

Gennaro A. Santangelo

Lewis C. Brown

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ARBITRATOR

Esq.

DATE SERVED: 02/15/91

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