

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Simmons Correia Jr.

90-01597

Name of Respondent

Shearson Lehman Brothers, Inc.

REPRESENTATION

Claimant Simmons Correia, Jr. ("Claimant") represented himself.

Respondent Shearson Lehman Hutton, Inc. ("Respondent") was represented by William A. Hobauser, Associate General Counsel for Shearson Lehman Brothers, Inc.

CASE INFORMATION

Statement of Claim filed: June 7, 1990.

Claimant's Submission Agreement signed on: June 5, 1990.

Statement of Answer filed by Respondent on: July 24, 1990.

Respondent's Submission Agreement signed on: July 19, 1990.

HEARING INFORMATION

Hearing Date/Sessions: September 14, 1992, one session.

Hearing Location: NASD offices in Boston, Massachusetts

CASE SUMMARY

Claimant alleged that he purchased unit trust through Stephen Prescott who was a registered representative and an agent for Respondent. Claimant alleged that this investment was not suitable for Claimant as it did not provide Claimant with sufficient monthly income. Claimant alleged that Respondent placed him in a margin account that was not suitable for him. Claimant alleged that Respondent violated the margin rules. Claimant alleged that Respondent committed fraud.

Respondent maintained that Claimant's claim is barred by all relevant statute of limitations. Respondent maintained that Claimant's claim should be dismissed because it is not eligible based on Section 15 of the Code of Arbitration Procedure. Respondent maintained that Claimant's account was properly handled at all times and that the investments were suitable. Respondent maintained that Claimant requested a margin account and that Claimant was suitable for a margin account. Respondent maintained that all margin rules were complied with and that there was no fraud committed.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$5,187.50 plus money market interest due to date.

Respondent requested that the arbitration panel dismiss Claimant's claim in its entirety.

**OTHER ISSUES CONSIDERED & DECIDED**

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 originals remain on file with the NASD.

**AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That the parties shall each bear their respective costs, including attorney's fees.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

That forum fees are assessed against the Claimant in the amount of \$200, however, Claimant is entitled to offset this amount with his hearing session deposit of \$200 so that no monies are due from the Claimant.

Page 3.  
Award #90-01597

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures  
Name

Public/Industry

/s/

\_\_\_\_\_  
Francis J. Feeney, Jr., Esq.  
Chairman

/s/

\_\_\_\_\_  
J. Paul Finnegan

\_\_\_\_\_  
Public Arbitrator

/s/

\_\_\_\_\_  
William J. Oldmixon

Date of Decision: September 24th, 1992