

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between:

MENKEN STUDIOS, INC. RETIREMENT TRUST

CLAIMANT

V.

SHEARSON LEHMAN HUTTON, INC.

AND

JAMES F. BUCKLEY

RESPONDENTS

AWARD
#90-01816

CASE SUMMARY

The Statement of Claim was filed with the NASD, Inc. on June 27, 1990.

Claimant, Menken Studios, Inc. Retirement Trust, by its Trustee, Howard Menken, alleged that Respondents, Shearson Lehman Hutton, Inc. and James F. Buckley, violated its stated investment objective of safety and preservation of capital and breached their fiduciary duty toward Claimant by misrepresenting and purchasing investments that were not suitable for Claimant (Far West Savings and Loan Assn., America First Participating Preferred Equity Mortgage Fund and MFS Lifetime Government Income Plus). Claimant contended that Respondents churned its account and failed to provide offering circulars or prospectus prior to the sale of the securities in question.

Respondents, Shearson Lehman Hutton, Inc. and James F. Buckley, denied all allegations of wrong-doing and maintained that all investments were entirely suitable and in keeping with Claimant's investment objectives. Respondents further maintained that all transactions in Claimant's account were authorized and that all losses in Claimant's account were brought about by Claimant's actions.

RELIEF REQUESTED

Claimant requested the rescission of all transactions in question, damages in the amount of \$429,208.36, punitive damages of \$600,000.00. plus costs and attorneys' fees.

Respondents requested dismissal of the Claim and that the costs of this proceeding be assessed against Claimant.

AWARD-#90-01816

On January 15, 1991 and January 16, 1991, the undersigned arbitrators heard the controversy between the Parties as set forth in submissions to Arbitration signed by the Claimant on July 12, 1990 and by the Respondent, Shearson Lehman Hutton, Inc. on January 15, 1991 and by Respondent James F. Buckley on January 15, 1991. The hearing was held in New York City and consisted of four (4) 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. Respondent, Shearson Lehman Hutton, Inc. shall pay to Claimant, Menken Studios, Inc. Retirement Trust, the sum of Thirteen Thousand Dollars and no cents (\$13,000.00) exclusive of interest;
2. Claimant's Claim against Respondent, James F. Buckley shall be and hereby is dismissed in all respects;
3. Claimant's Claim for punitive damages, against Respondents shall be and hereby is dismissed in all respects;
4. The Parties shall each bear their respective costs, including attorneys' fees;
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$1,000.00 filing fee previously deposited by the Claimant;
6. Respondent, Shearson Lehman Hutton, Inc. is assessed forum fees in the amount of \$3,000.00 payable to the NASD, Inc. through its staff administrator in accordance with Section 43 of the Code of Arbitration Procedure.

ARBITRATORS CONCURRING

/s/

Vincent L. Leibell, Esq.
(Public-Chairman)

/s/

Arnold Flicker
(Public Panelist)

/s/

Alvin Meentemeier
(Industry-Panelist)