

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

James T. Reay

90-02138

Name of Respondent(s)

Shearson Lehman Hutton, Inc.
Berthold Turner

Public/Industry

Public/Chair

Public

Industry

CASE SUMMARY

Claimant was represented by: John Lawrence Allen, Esq.
Respondents were represented by: Terry Ross, Esq. of Keesal, Young & Logan.

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on August 6, 1990.

Claimant James T. Reay (Reay) that Respondent, Berthold Turner (Turner), a broker employed by Shearson Lehman Hutton Inc. (SLH), induced Reay into purchasing certain limited partnership interests. Reay alleges that said partnerships were an unsuitable investment vehicle in light of Reay's objectives of income, safety of principal and liquidity. Reay also alleges fraud, deceit, omission of material facts, intentional and negligent misrepresentation, breach of fiduciary duty, breach of the implied covenant of good faith and fair dealing, violation of State and Federal Statutes, and violation of NASD rules.

Respondents, Turner and SLH, answering jointly, assert that all risks involved in the investments were fully disclosed both orally and in writing. It is also alleged that Reay's objectives included appreciation and income with risk as well as speculation, thus making said partnership investments suitable for him.

RELIEF REQUESTED

Claimant seeks rescission of all limited partnership interests and the return of all monies invested in the approximate amount of \$226,000.00, interest, costs, attorneys' fees, and punitive damages.

Respondents seek dismissal of the claim in its entirety plus costs.

AWARD

On May 2nd and 3rd, 1991, in Santa Monica, California, during a hearing lasting 4 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, James T. Reay on July 19, 1990. Respondents, Shearson Lehman Hutton, Inc. and Berthold Turner, stipulated to the jurisdiction of the arbitration panel at the hearing.

After considering the pleadings, the testimony, and the evidence presented at 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, James T. Reay, against Respondent, Shearson Lehman Hutton, Inc., is dismissed.
2. Each and every claim of Claimant, James T. Reay, against Respondent, Berthold Turner is dismissed.
3. 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 \$750.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators. In addition, Respondent is also assessed fees of \$750.00. Fees are payable to the National Association of Securities Dealers, Inc.

Signatures

Libbe R. Murez
Libbe R. Murez, Esq.

Date of Decision: _____