



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimants

Alvin and Judith Rosenfeld

vs

90-02147

Name of Respondents

Shearson Lehman Hutton, Inc.  
Irwin Schachter

REPRESENTATION

For Claimant: Ellen G. Margolis, Esq. of Serchuk & Zelenmyer.

For Respondent: Thomas A. Roberts, Esq. of Shanley & Fisher, P.C.

CASE INFORMATION

Statement of Claim filed: August 6, 1990.

Claimant's Submission Agreement signed on: July 23, 1990.

Joint Statement of Answer filed on: December 18, 1990.

Respondent, Shearson Lehman Hutton, Inc., Submission Agreement signed on:  
December 18, 1990.

Respondent, Irwin Schachter, Submission Agreement signed on: December 19,  
1990.

HEARING INFORMATION

Hearing Date/Hearing Sessions: July 30, 1991 - two sessions.

Hearing Location: New York, New York.

CASE SUMMARY

Claimants, Alvin and Judith Rosenfeld, allege that they advised Irwin Schachter that their investment objective was conservative investments. Claimants contends that Schachter solicited them to invest \$25,000.00 in Bracken 1984 Private Drilling Limited Partnership and misrepresented that the investment was conservative, risk free and that the return on the investment would be sufficient to satisfy the principal and interest on the

margin loan used to purchase the investment. Claimants allege that Respondents misrepresented the tax benefits which they would receive from the limited partnership. Claimants also contend that Respondents actions amounted to a violation of Section 10(b) of the Securities Act of 1934 and Rule 10(b) promulgated thereunder, Rule 405 of the New York Stock Exchange, Article III, Section 2 of the National Association of Securities Dealers, Inc. Manual, common law fraud, negligent misrepresentation, and that they breached their fiduciary duties.

Respondents deny the allegations of wrongdoing and deny liability. Respondents contend that Claimants inquired about Shearson's large write-off tax shelters and Schachter provided them with the Bracken 1984 Private Drilling Program. Respondent also contend that the investment was suitable and represented only a small portion of the Claimants' total investment portfolio. Respondents further contend that the investment did not perform as expected due to market conditions at the time.

#### RELIEF REQUESTED

Claimants request that the panel award them \$25,000.00 return of their investment, \$10,500.00 for unrealized tax savings plus interest at nine percent per annum, unrealized cash distributions of \$44,250.00 plus interest at nine percent per annum, margin interest of approximately \$6,500.00 incurred between September 1984 and September 1986 plus interest at nine percent per annum, lost interest on the proceeds of the \$20,000.00 Treasury Note which matured on August 31, 1986 plus interest at nine percent per annum, cost of this arbitration and reasonable attorney's fees.

Respondents request that all claims be denied.

#### AWARD

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

The parties have agreed that the Award in this matter may be executed in counterpart copies. The parties have also agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

1. All claims asserted by the Claimants against the Respondents are hereby denied in their entirety.

#### FORUM FEES

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

1. The NASD has received and shall retain \$150.00 non-refundable filing fee from the Claimants;

2. The NASD has received and shall retain \$500.00 hearing session deposit;

3. Forum fees in the amount of \$1000.00 for two hearing sessions at \$500.00 per session have been assessed and shall be borne equally by the parties;

4. Thus, Claimants are assessed \$500.00 in forum fees. The \$500.00 previously deposited shall be applied to this assessment;

5. Respondents are jointly and severally assessed \$500.00 in forum fees.

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

ARBITRATION PANEL

Allen Kilik, Esq.  
George R. Freund  
Jonathan Frede

Public - Chairperson  
Public  
Industry

Concurring Arbitrator's Signature



George R. Freund

Date of Decision:

7/30/91

Dated By NASD: August 22, 1991

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Allen Kilik, Esq.  
Geroge R. Freund  
Jonathan Frede

Public - Chairperson  
Public  
Industry

Concurring Arbitrator's Signature

  
Allen Kilik, Esq.

Date of Decision: 8

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Jonathan Frede

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

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