

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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: In the Matter of the Arbitration Between :  
: :  
: Beatrice L. Nix :  
: Claimant : CASE# 90-02168  
: vs. : AWARD  
: :  
: The Robinson Humphrey Company, Inc. :  
: Shearson Lehman/American Express, Inc. :  
: Respondents :  
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REPRESENTATION

For Claimant: David Andres, Esq.

For Respondents: Louise Bailey Matte, Esq. of the law firm of  
Peterson, Dillard, Young, Self & Asselin.

CASE INFORMATION

Statement of Claim filed: August 7, 1990.

Amended Statement of Claim on: April 5, 1991.

Claimant's Submission Agreement signed on: July 31, 1990.

Joint Statement of Answer filed on: December 3, 1990.

Answer to Amended Statement of Claim and Motion to Dismiss on:  
April 25, 1991.

Respondent The Robinson Humphrey Company, Inc.'s Submission  
Agreement signed on: April 9, 1991.

Respondent Shearson Lehman/American Express, Inc.'s Submission  
Agreement signed on: August 5, 1991.

HEARING INFORMATION

Hearing Dates and Sessions: July 10, 1991, 2 sessions.  
July 11, 1991, 2 sessions.

Hearing Location: The hearing was conducted at the offices of  
the National Association of Securities  
Dealers, Inc. located in Atlanta, GA.

CASE SUMMARY

Claimant Beatrice L. Nix alleged that on November 12, 1984 she was fraudulently induced to open an options trading account and margin account with The Robinson Humphrey Company, Inc. and Shearson Lehman/American Express, Inc. and she was an inexperienced investor with no understanding of options trading and options trading was totally inappropriate for the Claimant who is an elderly retired widow. Claimant further alleged that upon opening the account, her broker Ms. Frances Huffman made inappropriate investment decisions for her, purchased and sold securities which were unsuited for her financial needs and churned the Claimant's account in that she purchased and sold securities for the purpose of generating commission income. Respondents The Robinson Humphrey Company, Inc. and Shearson Lehman/American Express, Inc. maintained that Claimant is an intelligent woman who was fully capable of making investment decisions based upon information conveyed to her by Ms. Huffman and her investment objectives were growth, income and tax reduction and she acknowledged she was willing to assume risk to achieve those objectives. Respondent further maintained Ms. Huffman fully explained the risks and merits of each investment that she recommended and Claimant authorized each investment with knowledge of the relative risks and rewards and all investment recommendations by Ms. Huffman were suitable for the Claimant including the options transaction in light of her investment objectives. Respondents further maintained the mechanics and risks associated with margin trading were explained in detail to Claimant and she received numerous prospectuses and other literature from Respondents detailing the risks associated with the investments and she authorized the margin transactions in her account and fully understood the risks and costs of trading on margin. The Respondents further maintained the Claimant's account was not "churned" and was not actively traded and the commissions generated were not significant and all transactions were made in accordance with her investment objectives and not for the primary purpose of generating commission income. Respondents further maintained at all times Claimant was aware of the status of her account and Ms. Huffman and the Claimant were in constant contact and she received daily confirmations and monthly statements reflecting each transaction and Claimant earned a net profit in the account overall. Respondents further alleged that every cause of action which the Claimant has brought against Respondents is time barred under the Alabama two year Statue of Limitations and are barred under the Statute of Limitations on Rule 10b and Rule 10b-5 claims recently adopted by the United States Supreme Court which mandates that those claims must be brought within one year from the time the Claimant knew

or should have known of the violations and in no event more than three years from the time the violations occurred. Claimant maintained in response that the issue whether the receipt by the Claimant of her monthly statements operates to bar her claim with respect to all transactions that occurred two years prior to filing her claim is a factual issue for the arbitrators to determine. In response, Respondent maintained that Claimant has failed to prove her fraud claim so there is no tolling issue for the panel to determine.

#### RELIEF REQUESTED

Claimant requested damages in excess of \$100,000.00, plus punitive damages and a denial of Respondents' Motion to Dismiss. Respondents requested dismissal of all claims in their entirety and that all costs including reasonable attorneys' fees be awarded to Respondents'.

#### 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. The Respondents The Robinson Humphrey Company, Inc. and Shearson Lehman/American Express, Inc. be and hereby are liable jointly and severally and shall pay to the Claimant Beatrice L. Nix the sum of Five Thousand Dollars and No Cents (\$5,000.00), inclusive of interest.
2. The Respondents' Motion to Dismiss is denied.
3. The parties shall each bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following forum fees are assessed:

4 sessions X \$750.00 = \$3,000.00 minus hearing session deposit of \$750.00 = net \$2,250.00 due.

NOTE: Non-refundable claim filing fee from Claimant is \$200.00 and is outstanding.

Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant and the Claimant be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$200.00 and the Respondents The Robinson Humphrey Company, Inc. and Shearson Lehman/American Express, Inc. be and hereby are liable jointly and severally and shall pay to the National Association of Securities Dealers, Inc. the sum of \$2,250.00.

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

CONCURRING ARBITRATORS' SIGNATURE

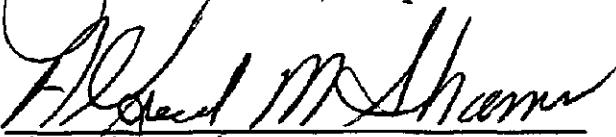
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Public/Industry



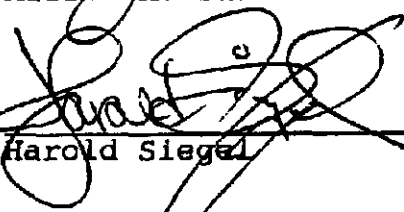
James C. Bussart, Esq.

Public Arbitrator



Alfred M. Shams

Industry Arbitrator



Harold Siegel

Public Arbitrator

Date of Decision:

September 9, 1991