

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

---

In the Matter of the Arbitration Between

Name of Claimant

Ed Kalimian

90-02442

Name of Respondents

Shearson Lehman Brothers, Inc.  
Edgar Fitzsimons

---

REPRESENTATION

For Claimant: Rachel Kerdman, Esq. of Joelson and Rochkind.

For Respondents: Paul R. Williams, Esq. of Shupbach, Williams & Pavone.

CASE INFORMATION

Statement of Claim filed: August 31, 1990.

Claimant Ed Kalimian's ("Claimant") Submission Agreement signed on: August 20, 1990.

Joint Statement of Answer filed by Respondents Shearson Lehman Brothers and Edgar M. Fitzsimons ("Respondents") on August 7, 1991.

Respondent, Shearson Lehman Brothers' ("Shearson") Submission Agreement signed on: November 23, 1990.

Respondent, Edgar Fitzsimons' ("Fitzsimons") Submission Agreement signed on: March 25, 1992.

HEARING INFORMATION

Hearing Date/Session: March 25, 1992 - one session

Hearing Location: NASD, Inc., New York City

CASE SUMMARY

Claimant alleged that Respondent Fitzsimons made a material misrepresentation

to the Claimant that the yield on the Shearson Lehman Special Tax Exempt Income Portfolio Fund (the "Fund") would be 8.63%. Claimant alleged that based on this misrepresentation and the representation that the Fund was liquid and that there would be no redemption or liquidation fees, Claimant purchased the Fund. Claimant alleged that Respondents failed to provide him with a Prospectus. Claimant alleged that due to these misrepresentations he suffered monetary losses.

Respondents maintained that Claimant was sent a Prospectus and that the alleged misrepresentation never occurred. Respondents maintained that Claimant's account was properly handled and that all material information was provided to the Claimant before he made his investment. Respondent maintained that no redemption or liquidation fees were ever assessed to the Claimant.

#### RELIEF REQUESTED

Claimant requested: compensatory damages in the amount of \$9,796.00 plus redemption fees.

Respondents requested: Claimant's claim be dismissed in its entirety and that Respondents be awarded costs, disbursements and attorneys fees.

#### AWARD

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

1. Claimant's claim is dismissed in its entirety.
2. All other costs, including requests for attorneys fees are denied.

#### FORUM FEES

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

Claimant paid hearing session fee of \$200.00

One hearing session held - cost for hearing is \$200.00

The arbitrator ordered the fees to be split by the parties. Claimant is assessed forum fees in the amount of \$100.00 and Respondents are assessed forum fees in the amount of \$100.00. However, because the Claimant has

Page Three  
Award 90-02442

already paid a hearing session deposit of \$200, Respondents are directed to reimburse Claimant hearing session/forum fees in the amount of \$100.00. No fees are to be paid to the NASD, Inc.

Arbitrator's Signature  
Name

Public/Industry

  
\_\_\_\_\_  
Joseph J. Arata, Esq.

Date of Decision: 3-30-92

NASD Date of Decision: April 1st, 1992

STATE OF NEW YORK ss.:

COUNTY OF NEW YORK

On this 30 day of MARCH 19 92, before me personally appeared Joseph J. Arata, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Jean Hopkins

LC25A

JEAN HOPKINS  
Notary Public, State of New York  
No. 414617000  
Qualified in Queens County  
Certificate Filed in New York County  
Commission Expires 5-31-93