

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Patricia A. Kuta
Tillie Kuta

No. 90-02547

Name of Respondents

Shearson Lehman Hutton, Inc.
Ronald Schwartz

REPRESENTATION OF PARTIES

For Claimants: Patricia A. Kuta and Tillie Kuta appeared pro se.

For Respondents: Charles A. Valente, Esq. of Altheimer & Gray.

CASE INFORMATION

Statement of Claim filed: April 4, 1991.

Claimants' Submission Agreement signed on: September 7, 1990.

Joint Statement of Answer filed by Respondents Shearson Lehman Hutton, Inc. and Ronald Schwartz
on: August 6, 1991.

Respondent Ronald Schwartz's Submission Agreement signed on:
July 25, 1991.

Respondent Shearson Lehman Hutton, Inc.'s Submission Agreement
signed on: October 1, 1991.

Amendment to the Statement of Claim filed: October 21, 1991.

HEARING INFORMATION

Hearing date(s): February 27, 1992, One Session.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimants Patricia A. Kuta and Tillie Kuta ("Claimants") alleged that beginning on or about January 30, 1989 through September 21, 1989, Respondent Ronald Schwartz ("Schwartz") contacted them about investing with Respondent Shearson Lehman Hutton, Inc. ("SLH"). Claimants alleged that based on the misrepresentations made by Schwartz as to the quality, "no-load" features, and level of risk of the investments, Claimants invested in the following:

Gabelli Equity Trust, Inc.	1,020 shares
Franklin Income Fund	4,652 shares
MFS Charles Income Trust	3,333 shares

The investments listed above provided a monthly income, however, the value of the principal decreased for all three. Claimants informed Schwartz of this fact, and Schwartz allegedly told the Claimants not to worry, and that the values would rise. Lastly, Claimants alleged Schwartz knew of their financial situation, and still placed them into risky investments.

In their Joint Statement of Answer, Respondents SLH and Schwartz denied any responsibility for the loss suffered by the Claimants. Respondents, SLH and Schwartz, further alleged that the investments recommended to the Claimants were suitable in the light of their stated investment objectives. Claimant Patricia Kuta sought high levels of monthly income, with relative safety, and when Claimants became uncomfortable with the price fluxuations, Respondent Schwartz had suggested a strategy for limiting their risk. A strategy which Claimants allegedly chose to ignore.

RELIEF REQUESTED

Claimants requested that they be awarded the sum of \$14,308.01 plus interest, and attorney's fees.

Respondents requested that Claimants' claim be denied.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by a counterpart copy or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

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

1. Claimants Patricia A. Kuta and Tellie Kuta's claims against Respondents Shearson Lehman Hutton, Inc. and Ronald Schwartz are hereby dismissed and denied with respect to the Franklin Income Fund and Gabelli Equity Trust, Inc.
2. Respondents Shearson Lehman Hutton, Inc. and Ronald Schwartz are jointly and severally liable for, and shall pay to Claimants Patricia A. Kuta and Tillie Kuta the sum of \$2,000.00 in relation to their claim concerning MFS Charter Income Trust SBI.

FORUM FEES

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

one hearing session X \$ 300.00 = \$ 300.00

Pursuant to Section 43 (c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$100, and shall retain the hearing session deposit in the amount of \$300 previously paid to the NASD by the Claimant.

The NASD shall refund the excess hearing session deposit fee in the amount of \$75.00 previously paid to it by the Claimants.

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

Dated:

March 10, 1992

/s/Robert L. Agosto
Robert L. Agosto
Presiding Chair