

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of  
Securities Dealers, Inc.  
NASD Financial Center  
33 Whitehall Street  
New York, N.Y. 10004  
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

Edward L. Beardshear

90-03201

Name of Respondents

Shearson Lehman Brothers, Inc.  
Lawrence Manierre

REPRESENTATION

For Claimant: Edward L. Beardshear ("Claimant") represented himself.

For Respondent Shearson Lehman Brothers, Inc. ("Shearson"): Therese M. Obringer, Esq. of Neal Gerber & Eisenberg.

For Respondent Lawrence Manierre ("Manierre"): Neil Bulman, Esq. of Porter Wright Morris & Arthur.

CASE INFORMATION

Statement of Claim filed: November 13, 1990.

Claimant's Submission Agreement signed on: November 7, 1990.

Statement of Answer filed by Shearson on: April 25, 1991.

Statement of Answer filed by Manierre on: April 5, 1991.

Shearson's Submission Agreement signed on: April 3, 1991.

Manierre's Submission Agreement signed on: April 1, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: October 1, 1991 - one session  
December 9, 1991 - two sessions  
December 10, 1991 - two sessions  
January 6, 1992 - two sessions

Hearing Location: Columbus Bar Association, Columbus, Ohio

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### CASE SUMMARY

Claimant alleged that Respondents made material misrepresentations in order to induce Claimant to purchase Capital Source Limited Partnership ("Capital Source"). Claimant alleged that he was an unsophisticated investor and that Manierre's recommendation of this investment was unsuitable for Claimant given his financial background and investment objectives. Claimant alleged that Respondents failed to know their customer. Claimant alleged that Respondents were aware of his need for liquid investments and that Capital Source was not a liquid investment. Claimant alleged that Manierre made certain guarantees regarding Capital Source so that Claimant would purchase this limited partnership. Claimant maintained that Manierre pressured him into purchasing Capital Source and failed to give Claimant a reasonable opportunity to review the Prospectus.

Respondents maintained that Manierre made no misrepresentations to the Claimant and fully discussed the Capital Source investment prior to Claimant's decision to purchase this limited partnership. Respondents maintained that at the time Capital Source was recommended to Claimant it was a suitable investment. Respondents maintained that they could not foresee that Congress was going to change the tax laws or that real estate values would level off or even drop in some parts of the country. Respondents maintained that Claimant understood this investment and that the resale of Capital Resource was limited to the internal market at E.F. Hutton, Inc. Respondents maintained that no guarantees were made to the Claimant. Respondents maintained that they did obtain two offers to purchase Capital Source from Claimant, including one offer in the amount of \$53,000. Respondents alleged that Claimant rejected both offers.

### RELIEF REQUESTED

Claimant requested in his pleadings compensatory damages in the amount of \$126,295 and punitive damages in the amount of \$100,000. At the hearing Claimant amended his damage claim to include compensatory damages, speculative damages, all filing fees and costs, attorneys fees, damages for interference with Claimant's livelihood, damages for severe emotional pain and distress, slander, defamation, punitive and unspecified damages totaling \$6,281,744.00.

Respondent Manierre requested that Claimant's claim be dismissed in its entirety and counterclaimed against Claimant for costs of Manierre's defense in this matter.

Respondent Shearson requested that Claimant's claim be dismissed in its entirety.

Claimant requested that Manierre's counterclaim be denied in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

That Claimant's motions to bar the answers of Shearson and Manierre were denied. That at the hearing on January 6, 1992 the Panel permitted Claimant to amend his claims for damages.

The parties have agreed that the Award in this matter may be executed in counterpart copies 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(s) remain on file with the NASD.

AWARD

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

1. That the panel finds in favor of Shearson and Manierre and against Claimant on all claims asserted jointly and/or severally.
2. That each party shall bear their costs.
3. That the Panel awards Manierre ONE DOLLAR AND 00/100 (\$1) on his counterclaim to be paid to Manierre by Claimant.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, forum fees are equally assessed against Claimant and Shearson. There were seven hearing sessions conducted in this matter and \$750 is assessed for each hearing session so that the total forum fees are \$5250. Claimant shall pay forum fees in the amount of \$2,625, however, Claimant is entitled to offset this amount with his hearing session deposit of \$750 so that the amount due from the Claimant as forum fees is \$1875. The amount due from Shearson as forum fees are \$2625.

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

Concurring Arbitrators' Signatures

Name

  
Jonathan I. Klein - Chairman

Public/Industry

Public Arbitrator

Date of Decision: March 9, 1992

OTHER ISSUES CONSIDERED & DECIDED

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Concurring Arbitrators' Signatures

Name

  
Ahmed Seif Amrany

Public/Industry

Public Arbitrator

Date of Decision: March 9, 1992

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Concurring Arbitrators' Signatures

Name

  
James A. Melfi

Public/Industry

Industry Arbitrator

Date of Decision: March 9, 1992