

N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
One East Broward Boulevard
Suite 1000
Ft. Lauderdale, Florida 33301
(305) 522-7391

In the Matter of the Arbitration Between)

Name of Claimant(s))

Renee Goldfin)

Name of Respondent(s))

Shearson Lehman Hutton, Inc.)
Barry Menin)

Case No. 90-03594

Heard before the Arbitrator:

Steven D. Elias, Esq.

Public

REPRESENTATION

Claimant, Renee Goldfin ("Goldfin"), was represented by Russell L. Forkey, Esq.

Respondents, Shearson Lehman Hutton, Inc. ("Shearson") and Barry Menin ("Menin") were represented by Lonnie Zangrillo, Esq. of Boose Casey Ciklin Lubitz, et al.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD"), on December 20, 1990. Claimant alleged that she is an elderly widow seeking a safe low risk alternative to CD's; that Respondents made misrepresentations of and omitted to state material facts; recommended and sold to Claimant a high income fund in government securities; that Claimant suffered a loss of principal; that the investment was unsuitable; and, that Respondents' actions constituted fraud and deceit, breach of fiduciary duty, negligence and negligent supervision.

In a Statement of Answer filed with the NASD on February 25, 1991, Respondents denied all allegations of wrongdoing and alleged that they made full disclosure of all facts and risks. Respondents alleged the affirmative defenses of assumption of risk; bar by ratification; account stated; estoppel, waiver and laches; failure to use due diligence; failure to mitigate damages; lack of scienter; statute of limitations; no tort damages flowing from breach of contract; Claimant relied on advice of her son and not Respondents; and, account was non-discretionary.

RELIEF REQUESTED

Claimant requested damages in the amount of \$16,946.00, interest, costs and other relief.

Respondents requested dismissal and costs.

AWARD

On September 16 and 24, 1991, in Fort Lauderdale, Florida, during a hearing lasting three (3) sessions, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on December 10, 1991, by Menin on April 30, 1991 and signed by William A. Hohauser, Esq. on behalf of Respondent, Shearson on February 4, 1991.

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:

1. Respondents are found liable, jointly and severally, and shall pay to the Claimant the amount of \$13,442.72, inclusive of interest.
2. Claimant's requests for costs and other relief are denied.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$900.00 (three sessions x \$300.00 per session). Respondents, are hereby assessed \$900.00, jointly and severally, \$300.00 of which shall be paid directly to the Claimant, and \$600.00 of which shall be paid to the National Association of Securities Dealers, Inc. The NASD shall retain \$300.00 of the \$400.00 session deposit previously paid by Claimant which Claimant shall recoup as set forth above. The NASD shall refund the \$100.00 overpayment of the sessions deposit made by the Claimant.

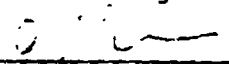
2. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

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

OTHER ISSUES

None.

Arbitrator's Signature



Steven D. Elias, Esq.

Date of Decision: 10/1/91