



N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

Arbitration

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(s)

Terri J. Robertson

91-00301

Name of Respondent(s)

Shearson Lehman Brothers, Inc.  
The Robinson-Humphrey Company, Inc.  
Richard L. Beacham

REPRESENTATION

REPRESENTATION

For Claimant: Gerald B. Kline, Esq. of the law firm of Bauer, Deitch & Raines, P.C.

For Respondent: David C. Jensen, Esq. of the law firm of Peterson Dillard Young Self & Asselin

CASE INFORMATION

Statement of Claim filed: January 29, 1991.

Motion for Award by Default filed on: April 18, 1991.

Claimant's Submission Agreement signed on: January 10, 1991.

Joint Statement of Answer filed by Respondents Shearson Lehman Hutton, Inc., The Robinson-Humphrey Company, Inc. and Richard Beacham on: May 3, 1991.

Reply to Claimant's Motion for Award by Default filed on: April 26, 1991.

Respondent Richard L. Beacham's Submission Agreement signed on: May 1, 1991.

Respondent The Robinson-Humphrey Company, Inc's Submission Agreement signed on: April 29, 1991.

Respondent Shearson Lehman Hutton, Inc's Submission Agreement signed on: May 2, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: September 23, 1991, 2 sessions  
September 24, 1991, 3 sessions

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

CASE SUMMARY

Claimant alleged that Respondents engaged in the unauthorized purchase and sale of unsuitable investments and excessive trading in her account of various funds and stocks; placed Claimant's account on margin without seeking her approval or making any required risk disclosures regarding that strategy; made misrepresentations to the Claimant; failed to advise her of the risks of her investments and breached the fiduciary duty owed the Claimant. Claimant further alleged Respondents Shearson Lehman Hutton, Inc. and The Robinson-Humphrey Company, Inc failed to sufficiently supervise Respondent Richard L. Beacham and monitor Claimant's account so as to minimize or avoid injury to her. Claimant also filed a Motion for Award By Default alleging Respondents' failed to answer within the twenty-day time period set forth in the Code of Arbitration Procedure.

Respondents Shearson Lehman Hutton, Inc., The Robinson-Humphrey Company, Inc. and Richard L. Beacham maintained it appeared that Claimant had a net profit in her account in accordance with her investment objectives and the investments made by Respondents on behalf of Claimant were suitable in all respects for her stated investment and income needs and were authorized by the Claimant. Respondents further maintained they did not make misrepresentations to Claimant about any of her investments and the nature of the risks were explained to Claimant and these risks were commensurate with her stated investment objectives and she understood the nature of her investments and fully approved of them. Respondents further maintained they did not breach the fiduciary duty owed the Claimant and all account supervisory responsibilities were performed by Respondents The Robinson-Humphrey Company, Inc. and Shearson Lehman Hutton, Inc. with a high degree of care in excess of the standard of ordinary care imposed by law. In response to Claimant's Motion for Award by Default the Respondents maintained the Claimant has not been prejudiced by Respondents' failure to reply within the time period specified by the Code and they will make every effort to cooperate with complete discovery by the hearing date.

RELIEF REQUESTED

Claimant requested compensatory damages in the sum of not less than \$87,000.00, rescission of open positions in Insured Municipal Income Trust #58, BEI, CIM High Yield Securities Fund, Starich, Inc. and Sun Electric, prejudgment interest, attorneys' fees and costs and expenses of litigation

plus separate awards of exemplary damages against each of the Respondents in sums as the Panel shall deem appropriate and such other and further relief as is just and appropriate. Claimant further requested in her Motion for Award by Default that all allegations of liability and damages in the Statement of Claim be deemed admitted by Respondents and that the arbitrators bar Respondents from presenting any matter, arguments or defenses at the hearing.

Respondents requested that Claimant's claims be dismissed and that an Award be entered in their favor. Respondents further requested that Claimant's Motion for Award by Default be denied.

#### 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 Shearson Lehman Hutton, Inc., The Robinson-Humphrey Company, Inc. and Richard L. Beacham be and hereby are liable jointly and severally and shall pay to the Claimant the sum of \$24,156.00 inclusive of interest on their unsuitability claim
2. The Claimant shall transfer to the Respondents Shearson Lehman Hutton, Inc., The Robinson-Humphrey Company, Inc. and Richard L. Beacham all of her ownership interests in Starich, Inc. and Sun Electric. In the event that Claimant still has an ownership interest in CIM High Yield Trust such interest shall also be transferred to Respondents Shearson Lehman Hutton, Inc., The Robinson-Humphrey Company, Inc. and Richard L. Beacham. In the event that Claimant no longer has an interest in CIM High Yield Trust, Claimant shall certify this fact to the Respondents.
3. Claimant's request for damages under any theory alleging common law fraud is denied.
4. Claimant's request for punitive damages is denied.
5. Claimant's Motion for Award by Default is denied.
6. 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.

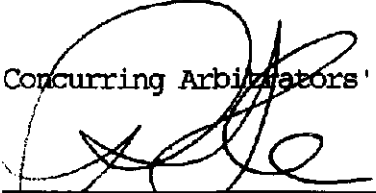
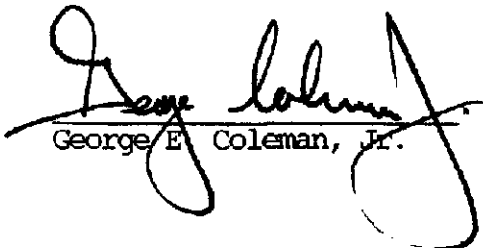
5 sessions X \$500.00 = \$2,500.00 minus hearing session deposit  
of \$500.00 = net \$2,000.00.

The Claimant Terri J. Robertson be and hereby is liable and shall pay to the NASD the sum of \$1,000.00 to represent forum fees and the Respondents Shearson Lehman Hutton, Inc., The Robinson- Humphrey Company, Inc. and Richard L. Beacham be and hereby are liable jointly and severally and shall pay to the NASD the sum of \$1,000.00 to represent forum fees.

The NASD shall retain the \$150.00 claim filing fee previously deposited by the Claimant.

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

Concurring Arbitrators' Signatures

  
Richard Allan Kaye, Esq.  
Robert H. Putnam, Jr., Esq.  
George E. Coleman, Jr.

Date of Decision: December 13, 1991