

N.A.S.D. AWARD  
NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)  
Rikki Sue Selby

91-00665

Name of Respondent(s)  
Shearson Lehman Hutton, Inc.  
Carol Miller  
George Wallace

Public/Industry  
Public/Chairman  
Public  
Industry

REPRESENTATION

Claimant was represented by H. Thomas Fehn, Esq. of Fields, Fehn and Sherwin.

Respondents were represented by Joseph S. Schuchert, Esq. of Keesel, Young and Logan.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on July 9, 1985.

Claimant, Rikki Sue Selby (Selby), alleges that she placed a stop loss order to sell 900 shares of Circon Corp common stock at 24 or below. The order was never executed even though the price had fallen considerably. Selby alleges that she was told by Respondents Carol Miller and Gene Wallace that she would be "made whole". However, nothing was done and the stock was subsequently sold at \$7.00 per share. Respondent, Lehman Brothers Kuhn Loeb, Inc. n.k.a. Shearson Lehman/American Express, Inc. was named by Selby for failure to supervise Miller and Wallace.

Respondents, answering jointly, allege that they made numerous efforts to contact Selby when the stock traded below the limit established by Selby.

It is also asserted that several days later Selby was contacted and told that the Circon stock was trading at 22 3/4 and that it had not been sold because it never traded at the 24 limit. On information and belief, Respondents allege that the stock traded between 22 and 24 for several weeks thereafter and could have been sold by Selby at any time. No instruction to sell were given.

RELIEF REQUESTED

Claimant, Rikki Sue Selby, seek to recover the sum of \$15,075.00, interest, attorneys' fees and costs.

Respondents, Shearson Lehman Hutton, Inc., Carol Miller and Gene Wallace seek dismissal of the claim in its entirety, attorneys' fees and costs.

### AWARD

On April 25, 1991, in Los Angeles, California in a hearing lasting 4 sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant, Rikki Sue Selby on May 17, 1985 and signed by Richard L. O'Connor on behalf of Respondent, Shearson Lehman Bros. Inc. on August 7, 1985 and by Respondent, Gene Wallace on September 24, 1985 and by Respondent Carol Miller on September 24, 1985

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Shearson Lehman Bros., Inc., Gene Wallace and Carol Miller are jointly and severally liable and shall pay to claimant the sum of Five Thousand Four Hundred Dollars and No Cents (\$5,400.00) plus interest thereon at the rate of 8% per annum from July 12, 1984 until paid in full.
2. The parties shall each bear their respective costs including attorneys' fees.


### FORUM FEES

In accordance with Section <43c> of the NASD Code of Arbitration Procedure, the NASD shall retain the \$300.00 filing fee previously deposited by the Claimant as an assessment of forum fees by the arbitrators. In addition, Respondents are also assessed fees of \$300.00. Fees are payable to the National Association of Securities Dealers, Inc.

### OTHER ISSUES

This claim arose out of a filing received by the NASD on May 17, 1985. Numerous continuances were granted by stipulation of the parties and by order of the arbitrators. Due to illness of the Claimant, the case was removed from the NASD active calendar until such time as the Claimant was sufficiently recovered to attend. On February 28, 1991 the NASD was informed that the Claimant could attend and the matter was placed on calendar for April 25, 1991. On April 16, 1991, Respondents filed a Request For Pre-Hearing Conference; Motion to Dismiss Proceedings for Failure To Prosecute. Said Motion was withdrawn prior to the hearing with the stipulation by the parties that Respondents Miller and Wallace could testify telephonically.

Signatures

  
Robert J. Riben, Esq

Date of Decision: \_\_\_\_\_