

**PUBLIC**

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

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**In the Matter of the Arbitration Between**

**Name of Claimants**

Natala Conterelli, Trust  
Charles Conterelli  
Nannette Bryn  
John Conterelli, TRUST

91-01186

**Name of Respondents**

Shearson Lehman Brothers, Inc.  
William A. Hayes  
Shearson Asset Management, Inc.

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**REPRESENTATION**

For Claimants: Harold R. Burke, Esq. of the law firm of Dual and Holland.

For Respondents: Arthur C. Schupbach, Esq. of the law firm of Schupbach Williams & Pavone.

**CASE INFORMATION**

Statement of Claim filed on: April 15, 1991.

Claimant Charles Conterelli, Trustee signed Submission Agreement on: April 11, 1991.

Claimant Nannette Bryn, Trustee signed Submission Agreement on: April 10, 1991.

Amended Statement of Claim filed on: February 10, 1992.

Joint Statement of Answer filed by Respondents on: June 20, 1991.

Respondent Shearson Lehman Brothers, Inc.'s ("Shearson") Submission Agreement signed on: July 23, 1991.

Respondent William A. Hayes's ("Hayes") Submission Agreement signed on: July 16, 1991.

Respondent Shearson Asset Management, Inc.'s ("Shearson Asset") Submission Agreement signed on: February 10, 1992.

**HEARING INFORMATION**

Hearing Dates/Sessions: February 10, 1992, 1 Session.  
February 11, 1992, 1 Session.

Hearing Location: NASD offices located in New York City, NY.

**CASE SUMMARY**

Claimants alleged Respondents were negligent and did not follow their instructions to forward to the Internal Revenue Service ("IRS") Form 1041 along with a check in the sum of \$121,179.00 and as a result Claimants had to pay interest and penalties.

Respondents maintained the liability incurred by the Claimants to the IRS does not arise out of any wrongdoing on the part of any of the Respondents and the instructions of Claimants were followed. Respondents further maintained Claimants losses resulted from one or both of the following:

- (1) the negligence of the trustees and consequent failure to discharge their fiduciary responsibilities to the Trust, and
- (2) the loss of the check by the IRS.

**RELIEF REQUESTED**

Claimants requested damages of \$55,260.85, exclusive of interest and costs.

Respondents requested dismissal of claims against them and that they be awarded their costs and attorney's fees.

**FIND**

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 and Shearson Asset be and hereby are liable jointly and severally and shall pay to the Claimants the sum of \$32,422.71, inclusive of interest;

2. All claims against Respondent Hayes be and hereby are dismissed in all respects;
3. Each party shall 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.

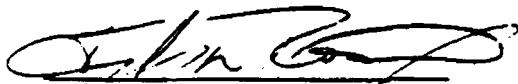
\$500.00 X 2 Sessions = \$1,000.00 minus hearing session deposit  
of \$500.00 = net \$500.00 due.

The Respondents Shearson and Shearson Asset be and hereby are liable jointly and severally and shall pay to the NASD the sum of \$500.00 to represent forum fees.

In addition, the Respondents Shearson and Shearson Asset be and hereby are liable jointly and severally and shall pay to the Claimants the sum of \$650.00 to reimburse them for the fees previously paid.

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

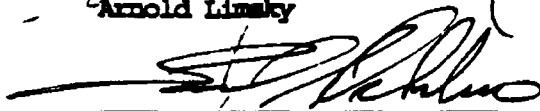
CONCURRING ARBITRATORS' SIGNATURES

  
Ted M. Rosen, Esq.

Public Arbitrator

  
Arnold Limsky

Public Arbitrator

  
Edward S. DeSalvio

Industry Arbitrator

Date of Decision: MAR 31 1992