

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Robin E. Masiello

91-01314

Name of Respondents

Shearson Lehman Brothers, Inc.  
Joseph Ferrante

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REPRESENTATION

For Claimant: R. J. Masiello appeared for Robin E. Masiello.

For Respondents: Robert D. Hillman, Esq. of Bingham, Dana & Gould in Boston, Massachusetts.

CASE INFORMATION

Statement of Claim filed: April 25, 1991.

Claimant's Submission Agreement signed on: April 22, 1991.

Joint Statement of Answer filed by Respondents on: July 26, 1991.

Respondent, Shearson Lehman Brothers, Inc.'s Submission Agreement signed on: July 19, 1991.

Respondent Joseph Ferrante did not sign a Submission Agreement as required by Sections 12 and 25 of the Code of Arbitration Procedure; however, the arbitrator takes jurisdiction over Joseph Ferrante in this matter since Joseph Ferrante was an associated person of a member firm, Shearson Lehman Brothers, Inc., at this time of this dispute.

HEARING INFORMATION

Hearing Date/Sessions: January 8, 1992/two sessions

Hearing Location: Boston, Massachusetts

CASE SUMMARY

Claimant Robin E. Masiello alleged that Respondent Shearson Lehman Brothers, Inc. and Joseph Ferrante managed and handled her account in an unprofessional manner, failed to communicate with her in a manner that recognized that she was placing her complete confidence on Mr. Ferrante's recommendations, and executed transactions in her account which were unsuitable as to substance and frequency.

Respondents Shearson Lehman Brothers Inc. and Joseph Ferrante maintained that the investments complained of by the Claimant were barred by the statute of limitations and that Joseph Ferrante had no discretion over the Claimant's account and fiduciary relationship to her.

RELIEF REQUESTED

Claimant requested damages of \$8,129.24. Claimant additionally requested damages for the loss of alleged potential profits the account could have realized had it been better managed, plus expenses. Respondents asserted a Motion to Dismiss the claims of the Claimant because the statute of limitations for her claims allegedly barred them.

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. Respondent Shearson Lehman Brothers, Inc., n.k.a. Shearson Lehman Hutton, Inc., is liable and shall pay to the Claimant Robin E. Masiello the sum of One Thousand Fifty Dollars and No cents (\$1,050.00)
2. The Motion to Dismiss of respondents be and hereby is denied.
3. The claims of Claimant against Respondent Joseph Ferrante be and hereby dismissed.

OTHER COSTS

1. The parties shall bear their respective costs.

Award #91-01314

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FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed:

1. The NASD, Inc. shall retain the \$275.00 hearing session deposit previously deposited by the Claimant and assesses an additional \$275.00 in forum fees against Respondent Shearson Lehman Brothers, Inc. n.k.a. Shearson Lehman Hutton, Inc.

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

Concurring Arbitrators' Signatures  
Name

Public/Industry

Mary C. Kelleher  
Mary C. Kelleher

J. J. J. J.

Date of Decision:

2.24.92

NASD DATE OF DECISION: March 3, 1992