

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Custom Stainless Equipment Co., Inc.
Jesse J. Tapscott and Vera M. Tapscott, Trustees

NASD Arbitration
No.91-01949

Name of Respondents

Shearson Lehman Hutton, Inc.
David Hardy
James Nielson

REPRESENTATION

For Claimants: James J. Sullivan, Esq. - Investors Recovery Service, San Francisco, California

For Respondents: Elizabeth P. Beazley - Keesal, Young & Logan, Long Beach, California

CASE INFORMATION

Statement of Claim filed: June 24, 1991

Claimants' Submission Agreement signed on: May 29, 1991

Statement of Answer filed by Respondent, Shearson Lehman Hutton on: October 4, 1991

Respondent, James Nielson's Submission Agreement signed on: November 5, 1991

Respondent, David Hardy's Submission Agreement signed on: September 19, 1991

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Dates/Sessions:	July 21, 1992	Two Sessions
	July 22, 1992	Two Sessions
	July 23, 1992	Two Sessions
	July 24, 1992	Three Sessions
	July 25, 1992	Three Sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant, Custom Stainless Equipment Co., through their Trustees, Jesse and Vera Tapscott (Tapscott) alleged that they opened an account with FPI Securities with Hutton serving as the clearing firm. During Tapscott's relationship with FPI, certain investments were made that the Claimants deemed unsuitable for a pension trust fund. Claimants alleged that Hutton condoned the questionable investments and are therefore liable for losses incurred through FPI.

Respondents alleged that Hutton, on a fully disclosed basis, served solely in the ministerial function as the "clearing" firm for FPI Securities. The Tapscotts executed an indemnification letter in favor of Hutton with respect to investments made by FPI Securities and that Hutton is in no way responsible for the losses suffered.

RELIEF REQUESTED

Claimants requested actual damages in excess of \$500,000.00, interest, recovery fees of \$30,000.00 and for punitive damages of \$1,950,000.00.

Respondents requested dismissal of the claim in its entirety plus costs.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.

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, David Handy, was dismissed, with prejudice, by the Claimants subsequent to the bringing of a motion by Respondent Handy to dismiss him as a party to the action, and prior to a determination on such motion by the arbitration panel.
2. Motion to Dismiss as to Respondent James Nielson is granted.
3. Respondent Shearson Lehman Brothers, as successor in interest to E. F. Hutton Company is liable, and shall pay to the Claimants, Custom Stainless Steel Equipment Co., the sum of One Hundred Sixteen Thousand Six Hundred Fifty Nine Dollars and Eight Cents (\$116,659.08) plus interest thereon at the rate of 5% per annum from January 1, 1989 to July 26, 1992.
4. Claimants' claim for punitive damages is denied.
5. The parties shall each bear their respective costs and attorneys' fees.
6. Respondent, Shearson Brothers, shall reimburse Claimants the sum of One Thousand Two Hundred Fifty Dollars (\$1,250.00) for fees deposited with the NASD.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1. Respondent, Shearson Lehman Brothers, is solely assessed the sum of \$11,000.00, representing assessments for 12 hearing sessions at \$1,000.00 each less credit of \$1,000.00 being reimbursed to the Claimants.

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

ARBITRATION PANEL

Name

Public/Industry

Public Arbitrator

Public Arbitrator

Industry Arbitrator

Signatures



Served 9/9/1992

Date of Decision: _____