

N.A.S.D. AWARD

National Association of
Securities Dealers, Inc.
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NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Malvern A. Moran, as Trustee)

Name of Respondent(s))

Shearson Lehman Hutton, Inc.)
Albert Zand)

Case No. 91-02476

REPRESENTATION

For Claimant, Malvern A. Moran, Trustee for Malvern A. Moran Trust ("Moran");
Charles D. Franken, Esq.

For Respondents, Shearson Lehman Brothers, Inc. ("Shearson") and Albert Zand
("Zand"); Lonnie Brown Zangrillo, Esq. of Boese Casey Ciklin et al.

CASE INFORMATION

Statement of Claim filed: August 9, 1991. Claimant's Submission Agreement
signed: September 5, 1991.

Respondents' Statement of Answer filed: November 18, 1991. Respondents'
Submission Agreements signed on October 15, 1991, by William A. Bohausser,
Vice President, on behalf of Shearson, and by Zand on October 18, 1991.

HEARING INFORMATION

On May 20, 1992, in Fort Lauderdale, Florida, a Pre-hearing Conference
lasting one (1) session was conducted via telephone conference call with an
arbitrator.

On June 25 and July 1, 1992, in Fort Lauderdale, Florida, hearings lasting
three (3) sessions were conducted.

CASE SUMMARY

Claimant alleged that she informed Respondents she was an elderly woman in
ill health with investment goals of income and preservation of capital; that
Respondents, through Zand, made misrepresentations of and omitted to state

material facts; recommended and effected unsuitable transactions in mutual funds that depleted her capital; and, that Respondents' actions constituted a violation of Section 517.301, Florida Statutes, breach of contract, fraud, breach of fiduciary duty, and negligence.

Respondents denied all allegations of wrongdoing and alleged that Claimant was fully advised of the facts and the risks, including the systematic withdrawal program; that Claimant set the amount of monthly income; and, that Claimant violated her own investment objectives.

Respondents alleged the affirmative defenses of failure to state a claim; assumption of risk; bar by ratification, account stated, estoppel, waiver, and laches; failure to exercise due care; failure to timely complain; no justifiable reliance; no scienter; damages not caused by Respondents; bar by statute of limitation; failure to comply with Section 768.72, Florida Statutes; violation of the Florida and United States Constitutions; no entitlement to tort damages; no fiduciary duty owed; alleged breach of contract not substantial, Respondents substantially complied, no damages caused to Claimant and breach induced by Claimant; and, the Panel is without jurisdiction to award attorney's fees.

RELIEF REQUESTED

Claimant requested damages in the amount of \$18,495.76 under benefit of bargain or \$43,133.72 including statutory interest, punitive damages, costs, attorney's fees, and expenses.

Respondents requested dismissal and 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 originals remain on file with the NASD.

AWARD

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 and Zand, are found not liable and, therefore, all claims against them are hereby dismissed.
2. Claimant's requests for attorney's fees, costs, and punitive damages are denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$1,800.00 (one pre-hearing conference x \$300.00 plus three sessions x \$500.00). Claimant is hereby assessed \$1,800.00 for which the NASD shall retain the \$370.00 session deposit previously paid in partial satisfaction thereof, leaving a balance due in the amount of \$1,430.00, payable to the National Association of Securities Dealers, Inc.

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

Concurring Arbitrators' Signatures

/s/
Linda A. Singer Stein, Esq.

Public

/s/
George R. Richards, Esq.

Public

/s/
Michael Lukasievich, Esq.

Public

Date of Decision: July 22, 1992