

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Kalma Koenig

NASD Arbitration
No. 91-02710

vs.

Name of Respondents

Shearson Lehman Brothers, Inc
Mike Frew

REPRESENTATION

For Claimant: James J. Sullivan, Esq.

For Respondent: William E. McDonnell, Jr. Esq. Keesal Young & Logan

CASE INFORMATION

Statement of Claim filed: August 29, 1991

Claimant's Submission Agreement signed on: August 23, 1991

Joint Statement of Answer and Motion to Dismiss filed by Respondents, on: October 29, 1991

Respondent, Shearson Lehman Brothers, Inc's Submission Agreement signed on: October 28, 1991

Respondent, Mike Frew's Submission Agreement signed on: October 25, 1991

HEARING INFORMATION

Pre-Hearing Conference: September 9, 1992 - One Session

Hearing Date/Session: September 15, 1992 - One Session

Hearing Location: San Francisco, California

CASE SUMMARY

Claimant, Kalma Koenig (Koenig) alleged that in early 1982, Respondent Mike Frew, while employed by Respondents Shearson Lehman Brothers, Inc.'s predecessor firm, E. F. Hutton, sold Koenig interests in two limited partnerships which subsequently fell in value. Koenig alleged that said investments were unsuitable in both size and type and liquidity.

Respondents alleged that Koenigs claim is ineligible for arbitration in that the claim was not filed with the NASD until on or after August 23, 1991, some six years after the investment purchases were made.

RELIEF REQUESTED

Claimant requested that Respondents' motion to dismiss be denied, monetary damages of \$124,971.00 and recovery fees of \$20,000.00.

Respondents requested that the claim be declared ineligible for arbitration per Section 15 of the NASD Code of Arbitration Procedure.

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, and oral arguments presented by the parties at the hearing, the undersigned arbitrator have decided in full and final resolution of the issues submitted for determination as follows:

1. Pursuant to Section 15, of the NASD Code of Arbitration Procedure, the claim of Claimant, Kalma Koenig, is ineligible for submission to arbitration in that six years have elapsed from the occurrence or event giving rise to the act or dispute, claim or controversy.
2. The parties shall each bear their respective costs and fees, including attorney's fees and recovery fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee is assessed:

1. Respondent Shearson Lehman Brothers, Inc., and Mike Frew are jointly and severally assessed the sum of \$750.00, representing fees for one hearing session.

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

ARBITRATORS

Public/Industry
Public Arbitrator
Public Arbitrator
Industry Arbitrator

ators' Signatures

DATE SERVED: 10/01/92

Robert Bourne
Robert Bourne

Date of Decision: _____