

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :

Jung Ja Hong :

Claimant :

vs. :

Shearson Lehman Brothers, Inc. . :
Alan Cohen :

Respondents :

CASE #91-02938
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 20, 1991, Claimant Jung Ja Hong, who appeared Pro Se, alleged that in 1987 Respondent Alan Cohen, Financial Consultant with Respondent Shearson Lehman Brothers, Inc solicited and recommended the purchase of 400 Cumulatively Convertible Preferred Units Permian Partners, L.P. by assuring that the units were guaranteed to pay a high rate of interest for five years whereby Claimant would make money on this investment and subsequently, on November 21, 1990, the Units were sold at a loss. Claimant further alleged that at the time of opening her account, she advised Respondent Alan Cohen that her account with Respondent Shearson Lehman Brothers, Inc. constituted 50% of her net worth and her goal was to put this money in stable, conservative investments whereby she specifically indicated that she did not want to engage in speculation. Claimant contended that in August 1988 Respondent Alan Cohen recommended the purchase of \$2,000 face amount of Units in Shopco Regional Malls, L.P., which was an unsuitable investment considering her investment objectives, therefore, Respondent Shearson Lehman Brothers, Inc. should rescind the trade. Claimant further contended that in August 1988 Respondent Alan Cohen recommended the purchase of 400 Chemical Banking Corp. Preferred Series C Adjustable Rate securities by assuring that its principal would remain the same and the interest rate would never go lower. Claimant asserted that in May 1990 Respondent Alan Cohen recommended the purchase of 100 shares of Archer-Daniels by assuring her it was a good blue-chip stock and would go up, at which time, Respondent Alan Cohen informed her that she did not need to send money for the purchase because there was enough in her money market to cover the purchase. Claimant further asserted that she later discovered that Respondent Alan Cohen had sold her 400

Chemical Banking Corp. Preferred Series C Adjustable Rate securities at a loss, without her knowledge or authorization, to cover the Archer-Daniels purchase. Claimant argued that Respondent Alan Cohen mishandled her account, in that his recommendations were unsuitable for her investment objectives and Respondent's Shearson Lehman Brothers, Inc. failure to supervise Respondent Alan Cohen, caused her to sustain losses, therefore, Claimant should be compensated for the losses and the Shopco Regional Mall, L.P. investment should be rescinded.

Respondents Shearson Lehman Brothers, Inc. and Alan Cohen by and through their in-house counsel William A. Hohausser, Esq., maintained that in March 1987 Claimant Jung Ja Hong opened her account with Respondent Alan Cohen, at which time, Claimant was transferring her account from Merrill Lynch, Pierce, Fenner & Smith, Inc. because she was unhappy with the way her account was being handled, therefore, it was all the more reason Respondent Alan Cohen took extra precautions with Claimant's account. Respondents further maintained that during Respondent Alan Cohen's initial conversation with Claimant, he learned that her annual income was approximately \$30,000 and her net-worth was approximately \$75,000. Respondents contended that in November 1987 Claimant purchased 400 Cumulative Convertible Preferred Units of Parmian Partners L.P. whereby every quarterly dividend payment was made from February 1988 through November 1990 by the parent company and through dividend payments along with the proceeds from the mandatory tender offer, Claimant actually gained \$954.07. Respondents further contended that the principal objectives of the Shopco Regional Malls, L.P., according to the prospectus, was to provide for quarterly cash distributions; to realize appreciation and preserve the capital, whereby these objectives meshed with Claimant's objectives. Respondent asserted that in August 1988 Claimant purchased 400 Chemical Banking Corp. Preferred Series C Adjustable Rate and subsequently, Claimant instructed Respondent Alan Cohen to use the proceeds of the sale of the Chemical Bank shares to buy 100 shares of Archer-Daniels whereby confirmations were sent to Claimant for all transactions. Respondents further asserted that the investments made in Claimant's account were conservative and growth-oriented, approved by Claimant and in fact, the most speculative purchase made in Claimant's account was her suggestion, therefore, Respondents are not liable for any losses.

RELIEF REQUESTED

Claimant Jung Ja Hong requested \$4,593.03 in actual damages plus 9% interest per annum from August 23, 1988 on the \$2,000 face amount of units in Shopco Regional Malls, L.P. together with \$59.59 in costs and the cash remaining in her account in the amount of \$19.42; whereby she will return to Respondent Shearson Lehman Brothers, Inc. the \$2,000 face amount of units in Shopco Regional Malls, L.P.

Respondents Shearson Lehman Brothers, Inc. and Alan Cohen requested the claim be dismissed in its entirety, and the Respondents be awarded its costs, including attorney's fees.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Blair Allen, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 16, 1991, by the Respondent Shearson Lehman Brothers, Inc. on April 13, 1992 and by the Respondent Alan Cohen on June 22, 1992.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Shearson Lehman Brothers, Inc. and Alan Cohen are jointly and severally liable and shall pay to the Claimant Jung Ja Hong the sum of \$3,037.00 in actual damages.
2. The Claimant Jung Ja Hong shall promptly execute and deliver to the Respondent such documents as may reasonably be required for Claimant to transfer, without recourse or liability, to Respondents the \$2,000 face amount of units in Shopco Regional Malls, L.P. which are a subject of dispute of this matter.
3. Respondents Shearson Lehman Brothers, Inc. and Alan Cohen are jointly and severally liable and shall pay to the Claimant Jung Ja Hong simple interest at the rate of 6% per annum from August 1, 1992 to date of payment of the award.
4. Respondent Shearson Lehman Brothers, Inc. shall promptly transfer, without fee or other charge, to Claimant Jung Ja Hong or such other person as Claimant shall designate all assets in Claimant's account(s) with Respondent Shearson Lehman Brothers, Inc.
5. The parties shall bear their respective costs, including attorney's fees.

6. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Jung Ja Hong shall be retained by the NASD, Inc. Respondents Shearson Lehman Brothers, Inc. and Alan Cohen are jointly and severally liable and shall pay to the Claimant the sum of \$50.00 as reimbursement.

AFFIRMATION

I, **BLAIR ALLEN, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: September 24, 1992

STATE OF: NEW YORK

SS:

COUNTY OF: QUEENS

On this 16th day of September 19 92, before me personally appeared Blair Allen, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



Mark O. Glut

MARK O. GLUT
Notary Public, State of New York
No. 4986100
Qualified in Queens County
Commission Expires April 20, 1994