

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimants

Vesta Roach and Betty Beardsley

and

91-03925

Name of Respondents

Shearson Lehman Hutton, Inc.
n/k/a Shearson Lehman Brothers, Inc.
Gary S. Jefferson and David B. Coates

REPRESENTATION OF PARTIES

Claimants were represented by Thomas S. Stone, Esq. of Dover & Dixon, Little Rock, Arkansas.

Respondents were represented by Scott E. Daniel, Esq. of Hilburn, Calhoun, Harper, Pruniski & Calhoun, Ltd., North Little Rock, Arkansas.

CASE INFORMATION

The Statement of Claim was filed on or about December 11, 1991. Claimant's Submission Agreement signed on October 25, 1991 by Vesta Roach and Betty Beardsley.

Statement of Answer filed by Respondents Shearson Lehman Hutton, Inc. n/k/a Shearson Lehman Brothers, Inc. Gary S. Jefferson and David B. Coates on or about March 17, 1992.

HEARING INFORMATION

The hearing was held on Tuesday, September 1, 1992 for two (2) sessions and Wednesday, September 2, 1992 for one (1) session in Little Rock, Arkansas for a total of three (3) sessions.

CASE SUMMARY

Claimants alleged that Respondents Shearson Lehman Hutton, Inc. n/k/a Shearson Lehman Brothers, Inc. Gary S. Jefferson and David B. Coates (collectively as "Respondents") engaged in fraud in the sale of securities, engaged in common law fraud, breached their fiduciary duties to the claimants, and were negligent. Claimants specifically alleged that Respondents made representations to claimants and solicited them to open and maintain an account for the purpose of purchasing and selling securities. Claimants further alleged that Respondent Jefferson induced them to sell their shares of Exxon and certain certificates of deposit to purchase shares

of SLH High Income Portfolio Fund by making untrue statements of material facts and/or omitting to state material facts. Claimants also alleged that the investment in the Fund was not a suitable investment for them in light of their financial condition, needs and investment objectives.

Respondents denied the allegations of wrongdoing set forth in the Statement of Claim. Respondents stated that the shares of Exxon were sold with the explicit instructions of the claimants; that Respondent Jefferson presented various alternative investment products to the claimants prior to the investment of the Exxon sale proceeds which were discussed and examined by the claimants; and that the claimants stressed that they needed the highest available income.

RELIEF REQUESTED

Claimant requested an award in the amount of \$73,218.43, interest, reasonable attorney's fees and costs. Claimants also requested an award of punitive damages.

Respondents requested that the claims asserted herein be dismissed and that all costs and expenses, including attorney's fees be assessed against the claimants.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Shearson Lehman Brothers, Inc. Gary S. Jefferson and David B. Coates did not file with the NASD properly executed submissions to arbitration but are required to submit to arbitration pursuant to Section 12 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

Respondent David B. Coates was dismissed from this matter by agreement of the parties.

Claimant Vesta Roach was replaced as a Claimant in this matter by agreement of the parties as a result of her death prior to the commencement of the hearing. James Roach was added as a Claimant to this matter and executed a Submission Agreement on September 2, 1992.

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. Respondents Shearson Lehman Brothers, Inc. and Gary S. Jefferson shall be and hereby are jointly and severally liable for and shall pay to the /claimants Betty Beardsley and James Roach the sum of \$37,700.00 (Thirty seven thousand seven hundred dollars).
2. No punitive damages are awarded herein.
3. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimant. Claimants shall pay to the NASD the sum of \$250.00 and Respondents shall pay to the NASD the sum of \$750.00 as forum fees.

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each prehearing conference, if any. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

9-8-92

Steven Taylor Shultz
Steven Taylor Shultz, Esq.
Presiding Chair
Public Arbitrator

Charles C. Sisney
Public Arbitrator

Clarence Albert Getchell, III
Industry Arbitrator

NASD Served: 9.30.92

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Dated:

Charles C. Sisney
Sept. 10, 1992

Steven Taylor Shults, Esq.
Presiding Chair
Public Arbitrator

Charles C. Sisney
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Public Arbitrator

Clarence Albert Getchall, III
Industry Arbitrator

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Dated:

Steven Taylor Shultz, Esq.
Presiding Chair
Public Arbitrator

Charles C. Sisney
Public Arbitrator

9-9 

Clarence Albert Gatchell, III
Industry Arbitrator