

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Audrey J. Tisch

92-00282

Name of Respondents

Shearson Lehman Hutton, Inc.
Peter Redpath

REPRESENTATION

For Claimant, Audrey J. Tisch ("Tisch"): Thomas R. Grady, Esq. of Grady & Associates.

For Respondents, Shearson Lehman Hutton, Inc. ("SLH") and Peter Redpath ("Redpath"): Robert V. Williams, Esq. of Williams Reed Weinstein Schifino et al.

CASE INFORMATION

Statement of Claim filed: 1/27/92.

Claimant's Submission Agreement signed on: 1/24/92

A joint Statement of Answer filed by Respondents: 5/26/92.

Respondent, Shearson's, Submission Agreement and Corporate Acknowledgment signed by Ann Parry, Esq. on behalf of SLH on: 7/13/92.

Respondent, Redpath's Submission Agreement signed on: 7/7/92.

HEARING INFORMATION

Telephone Conference with an arbitrator: 6/21/93.

Hearing Dates/Sessions: 06/16/93-Two (2) sessions.
06/17/93-Three (3) sessions.
10/12/93-Three (3) sessions.
10/13/93-Two (2) sessions.
10/14/93-Two (2) sessions.

Hearing Location: Tampa, Florida.

CASE SUMMARY

Claimant alleged that Respondents recommended and purchased investments in limited partnerships for Claimant's account that were unsuitable for Claimant since they were illiquid and highly speculative and not in keeping with Claimant's investment objectives of safety, preservation of capital and income. Claimant further alleged that Respondents actions constituted fraud, misrepresentation, negligence, gross negligence, negligent supervision, breach of fiduciary responsibility, violation of securities laws, failure to use due diligence and civil theft.

Respondents denied all allegations of wrongdoing and alleged that all investment recommendations to Claimant were consistent with her financial objectives; that Claimant was treated professionally and courteously; she was never misled and was provided with a thorough explanation of each investment so that she could make a knowledgeable decision. Respondents alleged the following affirmative defenses, including but not limited to: failure to state a claim for relief; estoppel; waiver and ratification; contributory and comparative negligence; and, failure to exercise reasonable care and diligence.

RELIEF REQUESTED

Claimant requested actual damages, punitive damages, attorney's fees, interest and treble damages.

Respondents requested dismissal of the Statement of Claim and that all reasonable costs and attorney's fees be assessed against Claimant.

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 and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Redpath, is found not liable and, therefore, all claims against him are hereby dismissed.
2. Respondent, Shearson, is found liable and shall pay to Claimant damages in the amount of \$49,526.00 plus pre-judgment interest from January 14, 1990 June 16, 1993 at the legal rate of 12 % per annum in the amount of \$20,312.00.
3. Respondent, Shearson, is found liable and shall pay to Claimant the further amount of \$45,000.00 for attorneys' fees pursuant to Section 517.211(6), Florida Statutes.
4. Respondent, Shearson, is found liable and shall pay to Claimant costs of \$4,299.00.
5. Claimant's requests for treble damages and punitive damages are hereby denied.

OTHER COSTS

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

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$7,500.00 (One (1) telephone conference X \$300.00 + twelve (12) hearing sessions X \$600.00).

Page 4
Award-#92-00282

Respondent, Shearson, is hereby assessed forum fees in the amount of \$7,500.00, \$600.00 of which shall be paid directly to Claimant and \$6,900.00 to be paid to the NASD, Inc.

The NASD shall retain the non-refundable filing fee of \$250.00 paid by Claimant.

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

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name

Public/Industry

/s/

John P. Cullem, Esq.

Public/Chairman

/s/

Jordan Lederer

Public/Panelist

/s/

Harold C. Anders

Industry/Panelist

Date of Decision: December 17, 1993