PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	:	
Norma J. Schwarz	:	
Claimant	:	
	:	**CASE #92-01386**
vs.	:	**AWARD**
Shearson Lehman Brothers, Inc. Anthony Trattner	:	
Respondents	:	

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on April 22, 1992, Claimant Norma J. Schwarz, through her representative Robert M. Roth of Agoura Hills, CA, alleged that Respondents Shearson Lehman Brothers, Inc. and Anthony Trattner failed to recommend suitable investments in light of the understood investment objectives, the Claimant's age and past investment history, and instead misled her into purchasing two Limited Partnerships, Balcor Pension Investors V and Balcor Colonial Storage 86 LP. The Claimant further alleged that the Respondents breached their fiduciary by failing to provide a prospectus to the Claimant for these Limited Partnerships, and by recommending unsuitable investments in order to generate higher commissions, without regard to the Claimant's investment knowledge or sophistication. The Claimant contended that due to the speculative nature of the partnerships, she cannot rely upon having any value to such investments, causing further hardship in her retirement years and that the Respondents should be held liable for their deceitful actions.

Respondents Shearson Lehman Brothers, Inc. and Anthony Trattner, through their counsel, Michele R. From, Esq., of Keasel Young & Logan, Long Beach, CA, maintained that there have been no damages incurred by the Claimant since both investments have paid her quarterly payments, which are tax deferred. The Respondents also maintained that the Claimant's claims are barred by the applicable statute of limitations and that since she cannot establish that there have been any damages caused by these investments, her claim should be denied.

The Claimant filed a response to the Respondents' answer in which she repeated the defenses utilized by the Respondents.

RELIEF REQUESTED

Claimant Norma J. Schwarz requested the Limited Partnership investments be rescinded, and that she be awarded $8,7215.28 in actual damages, plus pre- & post-award interest, costs and attorney's fees.

Respondents Shearson Lehman Brothers, Inc. and Anthony Trattner requested the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Wayne E. Gallop, 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 April 8, 1992, by the Respondent Shearson Lehman Brothers, Inc. on May 19, 1992 and by Respondent Anthony Trattner on May 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. The claims of the Claimant Norma J. Schwarz against Respondents Shearson Lehman Brothers, Inc. and Anthony Trattner are dismissed in their entirety.

2. The parties shall bear their respective costs including attorney's fees.

3. The $150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **WAYNE E. GALLOP, 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.

Wayne E. Gallop

Signature of Arbitrator

DATE OF DECISION: October 13, 1992