

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Bernard and Fern Raphael

92-02381

Name of Respondents

Shearson Lehman Brothers, Inc.
Gary Weissman

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 17, 1992, Claimants Bernard and Fern Raphael, who appeared Pro Se, alleged that Respondent Shearson Lehman Brothers, Inc., through its representative, Respondent Gary Weissman, made an unsuitable recommendation to buy Hauser Chem stock by telling him the stock would increase in value and that he had knowledge about the company. The Claimants further alleged that the stock steadily decreased in value causing them to suffer a loss for which the Respondents should be held responsible.

Respondents Shearson Lehman Brothers, Inc. and Gary Weissman, through their in-house counsel, John P. Bevilacqua, Esq., maintained that this was a suitable investment for the Claimants, and that they were aware of the volatility of medical stocks. The Respondents maintained that they acted at all times in a professional and ethical manner and in accordance with all exchange and governmental regulations.

RELIEF REQUESTED

Claimants Bernard and Fern Raphael requested \$1,305.70 in actual damages plus interest.

Respondents Shearson Lehman Brothers, Inc. and Gary Weissman requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, David E. Muschler, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on July 13, 1992, by the Respondent Shearson Lehman Brothers, Inc. on September 28, 1992 and by the Respondent Gary Weissman on September 29, 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 Claimants Bernard and Fern Raphael against Respondents Shearson Lehman Brothers, Inc. and Gary Weissman are dismissed in their entirety.
2. The parties shall bear their respective costs and attorney's fees.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc.

AFFIRMATION

I, **DAVID E. MUSCHLER, 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: **March 12, 1993**