

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Harrison S. Glancy, Individually and as Trustee
Irma Lucas Glancy, Individually and as Trustee

NASD Case Number
92-02464

Name of Respondent(s)

Shearson Lehman Hutton, Inc.
Herbert M. Greenspon

REPRESENTATION

For Claimants, Harrison S. Glancy and Irma Lucas Glancy, Individually and as Trustees ("the Glancy's"): William T. Kirtley, Esq. and John Graves, Esq.

For Respondents, Shearson Lehman Hutton, Inc. ("Shearson") and Herbert M. Greenspon ("Greenspon"): Karen Gould, Esq. of Hertz, Schram & Saretsky, P.C.

CASE INFORMATION

Statement of Claim filed: July 24, 1992. Claimant's Submission Agreements signed on: July 22, 1992.

Statement of Answer filed by Respondents on: October 6, 1992. Respondents, Submission Agreements signed on: October 15, 1992 by Rick Apicella on behalf of Shearson and on October 19, 1992 by Greenspon.

HEARING INFORMATION

On February 2, 3, and 4, 1994 in Tampa, Florida hearings lasting seven (7) sessions were conducted.

CASE SUMMARY

Claimants, alleged that Respondents were liable for: violation of the Florida Securities and Investor Protection Act; common law fraud; and, violation of Chapter 517 of the Florida Statutes. Claimants alleged that Respondents misrepresented the suitability, safety, risks and potential income which could be derived from certain oil and gas and real estate limited partnerships; the limited partnerships were not suitable for Claimants and were not in accord with Claimants' investment objectives.

Respondents denied all allegations of wrongdoing and alleged that: the investments were suitable for the Claimants in light of their financial condition and prior investment experience; Mr. Glancy desired income producing investments that provided tax deductions; the complained-of investments represented approximately ten percent of Claimants' total portfolio; numerous other investments made by the Claimant made a profit; Claimants received prospectuses which warned of the risks and limited liquidity of the investments; Greenspon discussed the risks with Mr. Glancy; prior investments made by Mr. Glancy illustrate his business sophistication; and Greenspon regularly updated Claimants as to the performance of their account. Respondents asserted affirmative defenses of: statute of limitations and that New York law precludes an award of punitive damages.

RELIEF REQUESTED

Claimants requested damages in the amount of \$150,000 plus interest, costs, attorney's fees and punitive damages.

Respondents requested dismissal of the claim plus costs and attorney's fees.

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 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 are found not liable and, therefore, the claims against them are hereby dismissed.

2. Claimants' request for costs, attorney's fees and punitive damages is denied.
3. Respondent's request for costs and attorney's fees is denied.

OTHER COSTS

None

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the panel has assessed forum fees in the amount of \$5250 (seven sessions x \$750 per session).

1. Respondent, Shearson, is hereby assessed \$5250 of which \$750 shall be paid directly to the Claimants as a refund of the hearing session deposit previously paid by Claimants and \$4500 of which shall be paid to the NASD, Inc.
2. The NASD shall retain the \$750 hearing session deposit previously paid by Claimants in partial satisfaction of such forum fees.
3. The NASD shall retain the \$200 nonrefundable filing fee previously paid by Claimants.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

 |S|
George Felos, Esq.

Public

 |S|
James Smith, IV

Public

 |S|
Joseph Amonette

Industry

Date of Decision: 3-3-94