

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Virginia Crane

92-02948

Name of Respondents

Shearson Lehman Brothers, Inc.  
Bernice Freeland

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on September 2, 1992, Claimant Virginia Crane, who appeared Pro Se, alleged that Respondents Shearson Lehman Brothers, Inc. and Bernice Freeland convinced her to sell her existing securities and purchase Putnam Fund for Growth and Income and Putnam Option Income Trust II, and that she was never informed that she could have saved a considerable amount of commissions she paid if she had merely switched the proceeds inside her Colonial Group Fund, which she also owned. The Claimant contended that Respondent Bernice Freeland intentionally failed to advise her of this in order to generate higher commissions, and that Respondent Shearson Lehman Brothers, Inc. failed to supervise Respondent Bernice Freeland's actions. Claimant Virginia Crane further contended that due to Respondent Bernice Freeland's breach of fiduciary duty and Respondent Shearson Lehman Brothers, Inc.'s failure to supervise, she should be compensated for losses she has suffered.

Respondents Shearson Lehman Brothers, Inc. and Bernice Freeland, through their counsel, Peter W. Homer, Esq. of Greer, Homer & Bonner, PA, Miami, FL, maintained that the investments made were suitable for the Claimant and that she was aware of the risks involved in trading securities. The Respondents contended that all trades were discussed beforehand and authorized by the Claimant and that Shearson Lehman Brothers, Inc. maintained an adequate and reasonable system of supervision and control over its employees and acted in good faith at all times, and therefore, should not be held liable.

**RELIEF REQUESTED**

Claimant Virginia Crane requested \$10,000.00 in actual damages, plus interest and costs.

Respondents Shearson Lehman Brothers, Inc. and Bernice Freeland requested that the claims of the Claimant be dismissed.

**AWARD**

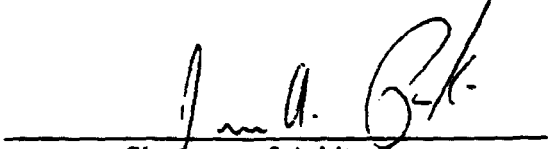
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Jerome A. Pivnik, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 21, 1992, by the Respondent Shearson Lehman Brothers, Inc. on November 3, 1992 and by Respondent Bernice Freeland on October 14, 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 Virginia Crane against Respondents Shearson Lehman Brothers, Inc. and Bernice Freeland are dismissed in their entirety.
2. The parties shall bear their respective costs.
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, JEROME A. PIVNIK, 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.

  
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Signature of Arbitration

DATE OF DECISION: April 21, 1993