

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Robert Ash

92-02958

Name of Respondents

Shearson Lehman Brothers, Inc. f/k/a
E.F. Hutton, Inc.
Christopher T. Mueller

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 2, 1992, Claimant Robert Ash, who appeared Pro Se, alleged that Respondent Shearson Lehman Brothers, Inc., through its registered representative, Christopher T. Mueller, misled him into purchasing 20 units of Hutton/ConAm Realty Investors 4 Limited Partnerships by assuring him that his original investment was guaranteed and that his principal would double in 5 years. The Claimant further alleged that this investment was not suitable or appropriate for a retired 73 year old person. The Claimant contended that he is entitled to recover the money he has lost due to the wrongdoing of the Respondents.

Respondents Shearson Lehman Brothers, Inc. and Christopher T. Mueller, in a Joint Statement of Answer, through their in-house counsel, John P. Bevilacqua, Esq., maintained that Respondent Mueller never promised that the original investment would double in value, nor that it was guaranteed. The Respondents further maintained that this investment was highly regarded by the Respondents when the Claimant purchased his interest in the Partnerships, and that the investment was recommended in accordance with the Claimant's objective of income with appreciation. The Respondents also maintained that a prospectus was sent to the Claimant which clearly stated the risks of the investment. The Respondents contended that they acted properly and in accordance with all laws and industry standards at all times and that they committed no wrongdoing; therefore, they should not be held liable in this matter.

In a supplement to their answer, the Respondents maintained that the claim is not eligible for submission, since all allegations made by the Claimant refer to events occurring prior to August 20, 1986, thus the claim should be dismissed.

RELIEF REQUESTED

Claimant Robert Ash requested \$6,500.00 in actual damages.

Respondents Shearson Lehman Brothers, Inc. and Christopher T. Mueller 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, Joseph L. Bernstein, 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 20, 1992, by the Respondent Shearson Lehman Brothers, Inc. on November 30, 1992 but not signed by Respondent Christopher T. Mueller as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

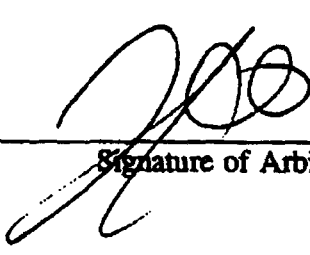
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Shearson Lehman Brothers, Inc. is liable and shall pay to Claimant Robert Ash \$6,064.60 in actual damages. In addition, rescission of the 20 units of Hutton/ConAm Realty Investors 4 held by the Claimant is ordered. The Claimant shall sign the certificate over to Respondent Shearson Lehman Brothers, Inc., and the Respondent Shearson Lehman Brothers, Inc. shall pay \$6,064.60 in rescission thereof.
2. The claims of the Claimant Robert Ash against Respondent Christopher T. Mueller are dismissed in their entirety.
3. The parties shall bear their respective costs.
4. 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.

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AFFIRMATION

I, JOSEPH L. BERNSTEIN, 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: February 2, 1994