

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

Emily Giovagnoli

92-03166

Name of Respondents

Shearson Lehman Brothers, Inc.  
Robert Bradley Frederickson

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on September 21, 1992, Claimant Emily Giovagnoli, through her counsel, Walter J. Middlecamp, Jr., Esq. of Portland, OR, alleged that Respondents Shearson Lehman Brothers, Inc. and Robert Bradley Frederickson placed her life savings in Sahara Casinos Partners, LP, which was not a suitable investment for a retired person of limited and irreplaceable resources, and that this investment was not in accordance with her investment objectives or needs. The Claimant further alleged that although sometime after making the investment she expressed concern, she was told to hold onto the investment. Claimant Emily Giovagnoli contended that she has suffered monetary damages due to the wrongful acts and omissions of the Respondents and that they should be held liable for the losses she has incurred.

Respondents Shearson Lehman Brothers, Inc. and Robert Bradley Frederickson, through their counsel Julie L. Somerville, Esq. of Keesal, Young & Logan, San Francisco, CA, maintained that the Claimant was well aware of the risks and rewards of Sahara Casino, which she chose to purchase, and that she received a prospectus at the time of her investment. The Respondents also maintained that this investment was suitable for the Claimant, and that the purchase was consistent with her investment objectives and with her directives to Respondent Robert Frederickson. The Respondents contended that they maintained an adequate and reasonable system of supervision and control over their employees, that they acted in good faith and did not at any time induce any act or acts constituting a cause of action, either acting alone or in concert, and that, therefore, they should not be held liable in this matter.

### **RELIEF REQUESTED**

Claimant Emily Giovagnoli requested \$18,948.00 in actual damages, \$1,979.00 in Punitive damages and \$581.00 in costs, plus the return of the NASD filing fee.

Respondents Shearson Lehman Brothers, Inc. and Robert Bradley Frederickson requested that the claims of the Claimant be dismissed.

### **OTHER ISSUES CONSIDERED & DECIDED**

Pursuant to Section 14 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, the parties have waived their right to a hearing as evidenced by the request in Claimant Emily Giovagnoli's Statement of Claim dated September 8, 1992 and a letter signed by counsel for Respondents Shearson Lehman Brothers, Inc. and Robert Bradley Frederickson dated January 4, 1993.

### **AWARD**

A single Public Arbitrator, Walter P. Hitchcock, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on September 11, 1992, by Respondent Shearson Lehman Brothers, Inc. on November 20, 1992 and by Respondent Robert Bradley Frederickson on December 4, 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 Emily Giovagnoli against Respondents Shearson Lehman Brothers, Inc. and Robert Bradley Frederickson are dismissed in their entirety.
2. The Claimant's request for Punitive damages is denied.
3. The parties shall bear their respective costs.
4. The \$400.00 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, WALTER P. HITCHCOCK, 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 Arbitrator

DATE OF DECISION: July 14, 1993