

N.A.S.D.

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

Name of Claimant

George Tillson

92-03821

Name of Respondent

Shearson Lehman Brothers, Inc.

**REPRESENTATION**

For Claimant: George E. Tillson, appearing pro se.

For Respondent: Ann Parry, Esq. Associate General Counsel for Shearson Lehman Brothers, Inc.

**CASE INFORMATION**

Statement of Claim filed: November 9, 1992.

Claimant's Submission Agreement signed on: November 4, 1992.

Statement of Answer filed by Respondent, Shearson Lehman Brothers, Inc. on: January 8, 1993.

Respondent, Shearson Lehman Brothers, Inc.'s Submission Agreement signed on: December 28, 1992.

**HEARING INFORMATION**

Hearing Date/Sessions: May 11, 1993/Two Sessions

Hearing Location: Buffalo, New York.

### **CASE SUMMARY**

Claimant alleges that he informed Respondent that he was interested in only income producing, conservative bonds. Claimant further alleges that on recommendation of his broker, he purchased EFH Corporate Trust Bonds and suffered a loss when the bonds were subsequently called. Claimant further alleges that he was subsequently advised that these were junk bonds and claims that he was duped and completely misled.

Respondent maintains that the claim should be dismissed pursuant to Section 15 of the NASD Code of Arbitration Procedure. Respondent further maintains that Claimant was seeking both income and growth; that prospectuses were mailed to Claimant detailing the risks of the bonds; and that Claimant obviously felt these investments were suitable because he made no objections. Respondent further maintains that Claimant has purchased bonds with similar ratings and continues to hold many of them.

### **RELIEF REQUESTED**

Claimant requested damages in the amount of \$6,888.00 reflecting the amount lost on the EFH Corporate Income Trust bonds.

Respondent requested that the claim be dismissed in its entirety and that Respondents be awarded its costs, including attorneys' fees.

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

The Director of Arbitration reviewed all submissions regarding respondent's Motion to Dismiss pursuant to Section 15 of the NASD Code of Arbitration Procedure. The Director determined that allegations of wrongdoing prior to November 14, 1986 (6 years before Claimant executed a Submission Agreement), are ineligible and that all allegations of wrongdoing occurring from November 14, 1986 and onward are eligible for NASD arbitration. Thus, the case continued on issues of alleged fraudulent activities only.

On April 19, 1993, Shearson Lehman Brothers, Inc. submitted a motion to have its counsel appear via telephone. The claimant objected to the motion. The arbitrator granted the motion.

### 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. claimant's claim is denied in its' entirety.
2. forum fees shall be divided equally (50-50) between respondents, jointly and severally and claimant.

### FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

\$75.00 non-refundable filing fee.

\$200.00 x 2 = \$400.00 (for 2 hearing sessions).

Forum fees are assessed against:

1. Claimant shall pay the NASD the sum of \$237.50, to be off-set by the \$275.00 already paid to the NASD. The difference of \$39.50 shall be reimbursed by the respondent.
2. Respondent shall pay the NASD the sum of \$237.50. Respondent satisfy payment by paying the NASD the sum of \$198.00 and shall reimburse the claimant \$39.50.

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

Arbitrator's Signature

*Phillip Marshall*

Phillip Marshall, Esq.

Public Arbitrator

Date of Execution: 8-12-93

~~Date of Decision:~~

Date of Decision: August 18, 1993