

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Martin Mandelblatt

92-04190

Name of Respondents

Shearson Lehman Brothers, Inc. n/k/a Smith Barney, Inc.  
Edwin Hunter

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**REPRESENTATION**

For Claimant Martin Mandelblatt ("Claimant"): Herbert M. Linsenberg and H. Graham McDonald, Attorneys at Law, Philadelphia, PA

For Respondents Shearson Lehman Brothers, Inc. n/k/a Smith Barney, Inc. and Edwin Hunter ("Hunter"): William A. Hohauser, Associate General Counsel, Smith Barney, Inc., New York, NY

**CASE INFORMATION**

Statement of Claim filed: December 14, 1992

Claimant's Submission Agreement signed on: December 11, 1992

Joint Statement of Answer filed by Respondents Shearson Lehman Brother's Inc. and Hunter (collectively referred to as "Respondents") on: February 4, 1993

Shearson Lehman Brothers, Inc.'s ("Shearson") Submission Agreement signed on: February 1, 1993.

Hunter's Submission Agreement signed on: February 22, 1993

**HEARING INFORMATION**

Hearing Dates/Sessions:

June 1, 1994 - two sessions  
August 15, 1994 - two sessions

Hearing Locations: American Arbitration Association, Philadelphia, PA and NASD  
District Office, Philadelphia, PA

### **CASE SUMMARY**

Claimant alleged, among other things, that Hunter ignored Claimant's stated investment objective of conservative investments with modest income and induced Claimant to make unsuitable investments. Claimant alleged that Hunter convinced Claimant to purchase speculative securities, including several oil and gas partnership interests. Claimant alleged that these purchases were not compatible with Claimant's retirement objective, which was to live conservatively without risking his capital. Claimant alleged that Respondents failed to disclose material information. Claimant alleged that the investment strategy employed by Hunter was for Hunter's benefit so that Hunter would generate commissions at Claimant's expense. Claimant alleged that there was excessive trading in his account and that Respondents churned his account. Claimant alleged that Shearson failed to supervise its agent or to properly supervise his account.

Respondents categorically denied all allegations of wrongdoing asserted by the Claimant. Respondents maintained, among other things, that Claimant did not seek conservative investments with modest income but rather the reverse. Respondents maintained that when Hunter took over Claimant's account the account held high yield, low rated bonds. Respondents maintained that Hunter made recommendations not to churn Claimant's account but to improve the quality of Claimant's investments. Respondents maintained that all material information was disclosed to Claimant. Respondents denied that Claimant's account was churned or that Hunter made transaction to make commission. Respondents maintained that all investments suggested by Hunter were suitable for Claimant and that Shearson properly supervised Hunter and Claimant's account.

### **RELIEF REQUESTED**

Claimant, in his pleading, requested compensatory damages in the amount of \$100,000; lost profits in the amount of \$100,000, and punitive damages in the amount of \$250,000.

Respondents, in their pleading, requested that Claimant's claim be dismissed in its entirety and that Respondents be awarded their costs, including attorney's fees.

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

At the hearing, the Claimant withdrew all causes of action except unsuitable recommendations by Hunter from 1985 through 1992, and "lost opportunities" in the handling of the account by Hunter.

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 originals remain on file with the NASD.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimant's claim is denied in its entirety.
2. That Claimant's claim for punitive damages is denied in its entirety.
3. That the parties shall bear their respective costs, including attorney's fees except as specifically stated herein.

### **FORUM FEES**

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

4 hearing sessions x \$750 = \$3,000


Forum Fees Assessed Against: Claimant and Respondent Shearson equally. Claimant is assessed forum fees in the amount of \$1,500, however, Claimant is

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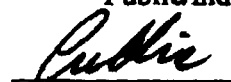
entitled to offset this amount with his hearing session fee of \$750 previously deposited so that the amount due from the Claimant is \$750. Respondent Shearson is assessed forum fees in the amount of \$1,500.

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

Concurring Arbitrator's Signature  
Name

  
Guillermo L. Bosch, Esq.

Public/Industry



NASD Date of Decision: August 30, 1994

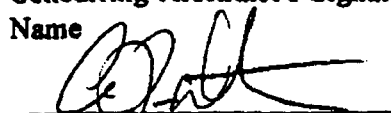
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entitled to offset this amount with his hearing session fee of \$750 previously deposited so that the amount due from the Claimant is \$750. Respondent Shearson is assessed forum fees in the amount of \$1,500.

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

Concurring Arbitrator's Signature

Name



A. Louis Denton

Public Industry

8/26/94


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entitled to offset this amount with his hearing session fee of \$750 previously deposited so that the amount due from the Claimant is \$750. Respondent Shearson is assessed forum fees in the amount of \$1,500.

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

Concurring Arbitrator's Signature  
Name

  
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Rafael A. Borrata-Doria, Jr.

Public/Industry

PUBLIC

NASD Date of Decision: August 30, 1994