

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Edward Maxwell

NASD Arbitration
No. 93-00796

v

Name of Respondents

Shearson Lehman Hutton, Inc.
John Childers
Michael Rader

REPRESENTATION

For Claimant: Douglas Federspiel, Esq. - Velikanje, Moore & Shore, Inc. - Yakima, Washington

For Respondents: Harry T. Walters, Esq. - Smith Barney Shearson, Inc. - New York, New York

CASE INFORMATION

Statement of Claim filed: March 3, 1993

Claimant's Submission Agreement signed: February 16, 1993

Statement of Answer filed by Respondents: May 27, 1993

Submission Agreement signed by Respondent, Michael Rader, on July 27, 1993

Submission Agreement signed by Respondent, John Childers, on August 5, 1993

HEARING INFORMATION

Pre-Hearing Conference Date / Session: None

Hearing Dates / Sessions: March 29, 1994 - Two Sessions
 March 30, 1994 - Two Sessions

Hearing Location: Seattle, Washington

CASE SUMMARY

Claimant, Edward Maxwell (Maxwell), alleged that Respondent, John Childers (Childers) while employed by Respondent, Shearson Lehman Hutton (SLH), under the supervision of Respondent, Michael Rader (Rader), recommended the purchase of unsuitable and risky investments for Maxwell's account. Said recommendations included the purchase of common stock and "junk bonds" with the use of margin. Said margin is alleged to be unsuitable in light of claimant's financial needs and investment objectives of stability and low risk. Claimant also alleged violation of Federal, State and Industry regulations.

Respondents, answering jointly alleged that the losses in Maxwell's account were largely due to the excessive spending-down of the principal by the Claimant. They also alleged that the Claimant was informed and sent confirmations of each transaction and never complained of any alleged unsuitable transactions in his account.

RELIEF REQUESTED

Claimant seeks an award of damages in the sum of \$500,000.00, or such other amount to be proved, prejudgment interest at the rate of 12% per annum from December 31, 1990 to the date of judgment, attorney's fees and costs.

Respondents seek dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in either 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 original remains on file with the NASD.

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. Respondents, Shearson Lehman Hutton, Inc. and John Childers, are jointly and severally liable and shall pay to claimant, Edward A. Maxwell, the sum of Seventy Five Thousand, Nine Hundred Fifty Dollars and No Cents (\$75,950.00). Said sum is inclusive of interest.
2. All claims against Jane Doe Childers, Michael Rader and Jane Doe Rader are dismissed.

3. The parties shall each bear their respective costs and fees, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

1. Claimant is assessed the sum of \$1,500.00, representing one-half of the fees assessed for four hearing sessions at \$750.00 each.
2. Respondents are jointly and severally assessed the sum of \$1,500.00, representing one-half of the total fees assessed.

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

ARBITRATORS

Name

Bonny Kathleen Riggs
Joseph L. Crowe, Jr.
Frederic E. Dorkin

Public / Industry
Industry Arbitrator
Public Arbitrator
Public Arbitrator

Concurring Arbitrators' Signatures

Bonny Kathleen Riggs
Bonny Kathleen Riggs

Joseph L. Crowe, Jr.

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Date of Decision: _____

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