

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Kenneth K. Murakami

NASD Arbitration  
No. 93-00899

Name of Respondent

Shearson Lehman Hutton, Inc.

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REPRESENTATION

For Claimant: Philip M. Aidikoff, Esq. - Aidikoff & Kesluk - Los Angeles, California

For Respondent: Michael C. Licosati, Esq. - Keesal, Young & Logan - Long Beach, California

CASE INFORMATION

Statement of Claim filed: March 9, 1993

Claimant's Submission Agreement signed: February 26, 1993

Statement of Answer filed by Respondent: May 28, 1993

Respondent's Submission Agreement signed: July 1, 1993

HEARING INFORMATION

Pre-Hearing Conference Date / Session: None

Hearing Dates / Sessions: February 14, 1994 - Two Sessions  
February 15, 1994 - Two Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, Kenneth K. Murakami (Murakami) alleged that employees of Respondent,

Shearson Lehman Brothers, Inc. (SLB), recommended the purchase of certain limited partnerships for Murakami's retirement account. Murakami also alleged that he told SLB that he wanted safety of principal and liquidity in said investments. Subsequent to the purchase the Claimant discovered that the limited partnerships were designed for holding periods of five years or more, that they were not liquid, that they bore a high degree of risk, were designed to be long-term investments and were not suitable for retirement accounts.

SLB alleged that, although the fact that some of the limited partnerships have not performed as anticipated, SLB should in no way be liable for the losses. It is alleged that Murakami was given copies of the prospectuses which disclosed all of the potential risk factors involved in the investments and that Claimant signed the subscription agreements indicating that he read and understood the prospectuses and all the risk factors disclosed therein.

### **RELIEF REQUESTED**

Claimant requests damages in an amount according to proof but not less than \$80,000.00, lost opportunity costs from October 26, 1987 to date, interest, costs, punitive damages and attorney's fees.

Respondent seeks dismissal of the claim in its entirety, costs and attorneys' fees.

### **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:

- i. Each and every claim of Claimant, Kenneth K. Murakami, against Respondent, Shearson Lehman Brothers, Inc., is dismissed.
2. All claims of Claimant for punitive damages are dismissed.
3. The parties shall each bear their respective costs and fees, including attorneys' fees.

### FORUM FEES

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

Total fees: Four sessions @ \$1,000 / ea. = \$4,000.00

Claimant's Share

Two sessions @ \$1,000.00 / ea. = \$2,000.00

Hearing session deposit previously paid = \$1,000.00

Balance due = \$1,000.00

Respondent's Share

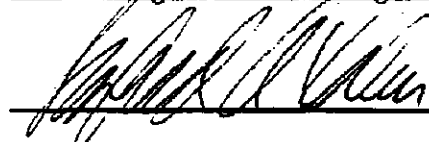
Two sessions @ \$1,000.00 / ea. = \$2,000.00

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

### ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Sanford Kahn	Public Chairperson
Richard Kling	Public Panelist
Donald Lisle	Industry Panelist

Concurring Arbitrators' Signatures

  
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Date of Decision: 2/23/94

Date Served: 03/28/94