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N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants

Edward C. Evenson
Harriet N. Evenson
Evenson Revocable Trust

NASD Arbitration
No. 93-00971

vs.

Name of Respondents

Shearson Lehman Hutton, Inc.
Bateman Eichler, Hill Richards, Inc.
* Kemper Securities, Inc.
John Brickley

REPRESENTATION

For Claimants: Craig L. Judson Esq., - Bold, Poisner, Maddow, Nelson & Judson
Walnut Creek, California

For Respondent: Shearson Lehman Hutton, Inc. - David C. Powell, Esq., - Brown & Wood
San Francisco, California

For Respondents: Bateman Eichler, Hill Richards, Inc., Kemper Securities, Inc. and John
Brickley - Philip A. McLeod, Esq., - Keesal Young & Logan, San Francisco,
California

CASE INFORMATION

Statement of Claim filed: March 15, 1993

Submission Agreement filed by the Evenson Revocable Trust on April 14, 1993

Submission Agreement signed by Claimants Edward C. and Shirley Ramirez on March 4, 1993

Statement of Answer filed by Respondent Shearson Lehman Brothers, Inc. on June 17, 1993

Joint Statement of Answer filed by Respondents, Bateman, Eichler, Hill Richards, Inc., Kemper

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Securities, Inc. and John Brickley on June 17, 1993

Submission Agreement filed by Respondent, Shearson Lehman Brothers, Inc., on May 14, 1993

Submission Agreement filed by Respondents, Kemper Securities, Inc. and Bateman Eichler, Hill Richards, Inc., on May 25, 1993

Submission Agreement filed by Respondent, John Brickley, on June 28, 1993

HEARING INFORMATION

Hearing Dates / Sessions: March 29, 1994 - One Session Prehearing conference
 June 1, 1994 - Two Sessions
 June 2, 1994 - Two Sessions
 June 3, 1994 - Two Sessions
 October 20, 1994 - Two Sessions
 October 21, 1994 - Two Sessions

Hearing Location: San Francisco, California

CASE SUMMARY

Claimants allege that the Respondents employed devices, schemes and artifices to defraud Claimants. That Respondents obtained money by means of and making untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. Claimants also alleged that Respondent, John Brickley, acted with the intent to defraud the Claimants and in willful and reckless disregard for the Claimants' interests. Claimants also alleged churning, lack of suitability, conversion, embezzlement, intentional misrepresentation, negligent misrepresentation and failure to supervise.

Claimants also alleged that Respondent, Brickley, failed to refund money paid to him by Claimants for the purchase of a motorized wheelchair/scooter.

Shearson Lehman Brothers, Inc., alleged that Respondent Brickley saved the Claimants tens of thousand of dollars in tax savings and principal and interest which would otherwise be lost and that Brickley's investment recommendations have left Claimants with a good rate of return both then and now. It is also alleged that the Claimants had confirmed to Shearson both orally and in writing that there were no problems in the account.

Respondents, Bateman, Eichler, Hill, Richards, Inc., (BEHR) (now known as Kemper Securities, Inc.) and John Brickley alleged that Brickley was of great help to Claimant, Edward C. Evenson, in setting up and consolidating his holdings and placing them in a trust. BEHR also

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alleged that they had no responsibility to monitor private financial transaction between Claimants and Brickley.

RELIEF REQUESTED

Claimants seek to recover compensatory damages in excess of \$100,000.00, punitive damages, costs and attorneys' fee.

Respondents seek dismissal of the claim in its entirety plus costs.

OTHER ISSUES CONSIDERED AND DECIDED

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 original remains on file with the NASD.

Respondent, Shearson, upon completion of Claimants' case, requested that the panel dismiss Shearson because the claim was filed after the three year limitation imposed on a rule 10 (b) violation. The motion was denied without prejudice. Upon closing the motion was reargued on State and Federal grounds. The panel reaffirms the denial of Shearson's motion to dismiss.

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. Respondent John Brickley:
 - a. Shall pay \$41,000.00 plus 7% interest to Claimants for funds improperly received. Interest is to computed as follows:
 1. On \$30,000.00 from July 17, 1989 until paid;
 2. The remaining \$11,000.00 accrued at intervals therefor the first \$1,000.00 should be computed from date of issuance until paid. The remaining \$10,000.00 should be computed from each date of issuance until June 21, 1994 (the date repayment was offered and subsequently refused);
 - b. Shall return the motorized chair to Claimants. If the return of the chair is refused by Claimants, the chair shall become the property of Respondent Brickley.
2. Respondents John Brickley and Kemper are jointly and severally liable and shall pay to

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Claimants:

- a) \$1,387.51 representing reimbursement for commission charges;
- b) \$14,772.12 with interest a + 7% per annum from April 24, 1990 until paid.
- 3. Claimants claim for punitive damages is denied.
- 4. All claims against Respondent Shearson Lehman Hutton, Inc. are dismissed.
- 5. The parties shall each bear their respective costs and fees, including attorneys' fees.

FORUM FEE

TOTAL FEES:

Ten hearing session @ \$500.00	-	\$5,000.00
One prehearing session @ \$300.00	-	\$ 300.00
		\$5,300.00
Respondent Shearson Lehman etc. share	-	\$1,767.00
Respondents Kemper Securities, Inc. and John Brinkley's share	-	\$1,767.00
Claimants share	-	\$1,766.00
Less hearing session deposit	-	\$ 500.00
		\$1,266.00

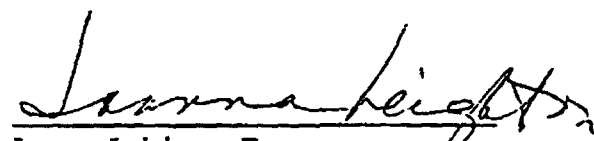
Fees are payable to the NASD, Inc.

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ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Joanna Leighton, Esq.	Public
Carl H. Auer	Public
Douglas F. Thornsjo, Esq.	Industry

Concurring Arbitrators Signatures


Joanna Leighton, Esq.

Carl H. Auer

Douglas F. Thornsjo, Esq.

Date of Decision: _____


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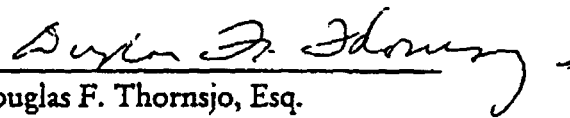
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