

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Vivian Mondello

93-02150

Name of Respondents

Shearson Lehman Hutton, Inc.
Taylor B. Chadsey, Jr.

REPRESENTATION

Claimant, Vivian Mondello ("Mondello"), was represented by Harry W. Haskins, Esq., Sarasota, FL.

Respondents, Shearson Lehman Brothers ("Shearson") and Taylor B. Chadsey, Jr. ("Chadsey"), were represented by Alejandro Schwed, Esq., of Smith Barney Shearson Inc., New York, N.Y.

CASE INFORMATION

Statement of Claim filed: May 28, 1993.

Claimant's Submission Agreement signed on: July 9, 1993.

A joint Statement of Answer was filed by Respondents, on: November 5, 1993. Respondent, Shearson's Submission Agreement was signed on: November 5, 1993 by Alejandro Schwed on behalf of the firm.

Respondent, Chadsey's a Submission Agreement was signed on: December 13, 1993.

HEARING INFORMATION

There was a hearing in Tampa, FL on May 27, 1994, which lasted 3 sessions.

CASE SUMMARY

Claimant, Mondello, alleged that she opened an account with Shearson in 1984 and was contacted by Chadsey in June 1992; that Chadsey represented to her that

Shearson would provide investment advice and services pursuant to Claimant's investment objectives which were the preservation of principal, income, and growth; that Chadsey then proceeded to sell various items out of Claimant's fund without Claimant's consent and to the detriment of Claimant's fund; that due to the lack of trading and investment sophistication, Claimant relied completely upon the recommendations of Shearson and its agents.

Respondents alleged that Claimant sought Chadsey because she was unhappy with her existing broker at another firm, thereby opening the account in this case in August 1992. Respondents further alleged that the investments discussed with Claimant consisted of mutual funds and an insurance annuity, all of which fit her investment objectives. Additionally, Respondents stated that Claimant approved all transactions prior to their taking place.

RELIEF REQUESTED

Claimant requested: all damages, including attorney's fees, statutory interest, costs, including arbitration filing fees and expert witness fees, treble damages and punitive damages.

Respondents requested: dismissal of the claim, and that all costs be assessed against Claimant.

OTHER ISSUES CONSIDERED & 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 originals remain on file with the NASD.

AWARD

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

1. Respondents, Shearson and Chadsey, are found not liable to Claimant and, therefore, all claims against them are hereby dismissed.
2. Claimant's requests for attorney's fees, statutory interest, costs, including arbitration filing fees and expert witness fees, treble damages and punitive damages, are hereby denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by the in connection with this proceeding (including attorney's fees).

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$2,250.00 (3 hearing sessions X 750.00).

1. Claimant is hereby assessed Forum Fees in the amount of \$1,125.00 for which the NASD shall retain the \$750.00 previously deposited in partial satisfaction thereof, leaving a balance due to the NASD of \$375.00.
2. Respondents, Shearson and Chadsey are hereby assessed Forum Fees, jointly and severally, in the amount of \$1,125.00 payable to the NASD.

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

Concurring Arbitrators' Signatures
Name

Public/Industry

/s/

Herbert L. Blume

Public/Chairman

/s/

Lon Hatton

Industry/Panelist

/s/

Ellen F. Stoutamire

Public/Panelist

Date of Decision: August 16, 1994