

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Eugene F. and Ruth M. Ottersen

93-02227

Name of Respondents

Smith Barney Shearson, Inc. f/k/a
Shearson Lehman Brothers, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 3, 1993, Claimants Eugene & Ruth Ottersen, who appeared Pro Se, alleged that Respondent Smith Barney Shearson, Inc., through its registered representative, Donald Conrad, mismanaged their account and convinced them to purchase investments that were not suitable to them, nor met their investment objectives and needs. The Claimants further alleged that they were persuaded to buy 72 unit E F Hutton TEFD #81 Natl Ser, and 10,000 Federal NTL-MTG ASSN GTD 1990-27C REMIC TR CALLABLE DTD 3/1/1990 due 6/25/2014, which they were told were low risk, conservative investments. The Claimants also alleged they were persuaded to purchase UTS INTERNATIONAL BD FUND #2M CITIES AUSTRALIA CLAM 2-MTHLY & VAN KAMPEN MERRITT US GOV'T FUND INC., among other similar investments, and that it appears that transactions took place in order to charge commission. Claimants Eugene & Ruth Ottersen contended that Respondent Smith Barney Shearson, Inc. f/k/a Shearson Lehman Brothers, Inc. should be held liable in this matter for the wrongdoings that have occurred.

Respondent Smith Barney Shearson, Inc. f/k/a Shearson Lehman Brothers, Inc., through in-house counsel, Ann Parry, Esq., New York, NY, maintained that any damages incurred by Claimants were caused by their own acts or omissions, not by any acts or omissions on its part, and further that Claimants received monthly statements and confirmation slips from Smith Barney Shearson, Inc. which apprised them of the status of their investments. The Respondent also maintained that if the Claimants' investments failed to perform in accordance with their expectations, Claimants failed to timely notify Respondent or to act to change their investment strategies, and that, therefore it should not be held liable in this matter.

In a reply to the Answer, the Claimants reiterated their request for damages and refuted the defenses of the Respondent.

RELIEF REQUESTED

Claimants Eugene & Ruth Ottersen requested \$6,636.00 in actual damages.

Respondent Smith Barney Shearson, Inc. requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Thomas E. Greef, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on May 24, 1993 and by the Respondent on April 11, 1994.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Smith Barney Shearson, Inc. is liable and shall pay to Claimant Eugene & Ruth Ottersen \$1,545.00 in actual damages.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants shall be retained by the NASD, Inc. Respondent Smith Barney Shearson, Inc. is liable and shall pay \$75.00 to the Claimants as reimbursement of one-half of the filing fee.

AFFIRMATION

I, **THOMAS E. GREEF**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: August 24, 1994