

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimants
Randy Dale and Mary Gentile

NASD Arbitration
No. 93-02638

v.

Name of Respondent
Shearson Lehman Brothers, Inc.

REPRESENTATION

For Claimants: Randy Dale, Aliso Viejo, California

For Respondent: Ann Parry, Esq., Smith Barney Shearson, New York, New York

CASE INFORMATION

Statement of Claim filed: July 2, 1993

Amendment to Claim filed: February 15, 1994

Claimants' Submission Agreements signed: Randy Dale on June 30, 1993
Mary Gentile: July 29, 1993

Statement of Answer filed: March 23, 1994

Respondent's Submission Agreement signed: March 22, 1994

HEARING INFORMATION

Hearing Dates / Sessions: June 1, 1994 / 2 sessions
June 2, 1994 / 1 session

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged lack of suitability and misrepresentation concerning discretionary authorization, commissions, account balance, and claims of high returns.

Respondent denied the allegations and asserted that Claimant Dale, acting as agent for Mary Gentile, represented himself as a knowledgeable investor with extensive investment experience who wished to speculate in lower priced securities. Respondent asserted that Claimants' trades were unsolicited, that Claimants made similar trades in another brokerage account on the same

day, and that Claimants monitored the account closely.

RELIEF REQUESTED

Claimants requested compensatory damages, as amended, of \$25,000 plus punitive damages.

Respondent requested dismissal of all claims and an award of costs of arbitration.

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 originals remain on file with the NASD.

AWARD

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

1. Respondent is liable for and shall pay to Claimant Mary Gentile the sum of \$1,000 in satisfaction of all claims.
2. The claim for punitive damages is dismissed.
3. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$100 non-refundable filing fee paid by Claimants. Forum fees are assessed as follows:

Claimants:

One session @ \$400 / session	\$ 400
Credit for deposit	<u>50</u>
Balance due	<u>\$ 350</u>

Respondent:

Two sessions @ \$400 / session	<u>\$ 800</u>
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Fees are payable to the NASD, Inc.

ARBITRATOR'S SIGNATURE

Name

Edward Kamenir

Edward Kamenir

Public / Industry

Public Arbitrator

Date of Decision:

Date Served: 06/15/94