

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Yehoshua S. & Freida Hecht, JT TEN

94-01646

Name of Respondents

Shearson Lehman Brothers, Inc.
n/k/a Smith Barney Inc.
Y. Asher Goodman

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 3, 1994, Claimants Yehoshua S. and Freida Hecht, who appeared Pro Se, alleged that Respondents Shearson Lehman Brothers Inc., n/k/a Smith Barney, Inc. ("SBI") and Y. Asher Goodman ("Goodman") sold them an unsuitable investment. Claimants further alleged that in May, 1988, they approached Goodman, an employee of SBI, and requested a safe investment. Claimants contended that Respondents sold them 500 units of a limited partnership called Eq/Shearson Hotel PPTYS/LP on May 24, 1988. Claimants further contended that this investment was not suitable for them and they have suffered a loss for which Respondents should be held liable.

Respondents, Smith Barney, Inc. and Y. Asher Goodman, through their representative, Ann Parry, Esq., in-house counsel for Smith Barney, Inc., maintained that Claimants understood that they could have invested their money in a bank, but they sought a higher rate of return than a bank could offer. Respondents further maintained that before Claimants made their investment, Goodman explained the risks attendant to purchasing units of this partnership, including the fact that, unlike an equity, their units were not liquid and that the recommended holding period was at least 6-10 years. Respondents contended Claimants received a copy of the prospectus, before their purchase, which is replete with language in forming would-be investors of the rewards and risks associated with the partnership. Respondents further contended that Claimants have received quarterly distributions in excess of \$1,500.00 and continue to receive quarterly distributions to this day. Respondents maintained the Claimant's claim of unsuitability is undermined by their having waited almost six years before complaining about their investment and accordingly, the claims of the Claimants should be dismissed.

RELIEF REQUESTED

Claimants, Yehoshua S. and Freida Hecht, requested \$5,000.00 in actual damages.

Respondents Smith Barney, Inc. and Y. Asher Goodman, requested that the claims of the Claimants be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Blair Allen, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on April 26, 1994 and by the Respondent, Smith Barney, Inc. on August 29, 1994. Respondent Y. Asher Goodman did not submit a Submission Agreement as required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.


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. Respondents, Smith Barney, Inc. and Y. Asher Goodman are jointly and severally liable and shall pay to the Claimants, Yehoshua S. and Freida Hecht, \$5,000.00 in actual damages.
2. Respondents, Smith Barney, Inc. and Y. Asher Goodman are jointly and severally liable and shall pay to the Claimants Yehoshua S. and Freida Hecht interest at the rate of 9% per annum from the date on which the most recent quarterly cash distribution on the subject securities was to be sent Claimants to date of payment of this Award.
3. The Claimants, Yehoshua S. and Freida Hecht shall promptly send to the Respondent Smith Barney, Inc. either the subject securities, if they are not now in the custody of Smith Barney, Inc. or such documents transferring to Smith Barney, Inc. all right, title, and interest in and to the subject securities as Smith Barney, Inc. may reasonably require.
4. The parties shall bear their respective costs.

5. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, Yehoshua S. and Freida Hecht, shall be retained by the NASD, Inc. Respondents, Smith Barney, Inc. and Y. Asher Goodman are jointly and severally liable and shall pay to the Claimants \$125.00 as reimbursement of the filing fee.

AFFIRMATION

I, **Blair Allen, Esq.**, do hereby affirm, pursuant to Article 7507 of the Civil Procedure Law & Rules, that I am the individual described herein and who executed this instrument, which is my oath and award.


Blair Allen, Esq.

Date of Decision: July 25, 1995