

**NATIONAL ASSOCIATION OF SECURITIES DEALERS  
AWARD**

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In the matter of the Arbitration Between

Raj Vadhera, as Personal Representative of the  
Estates of Navrata Ram Vij, and Guaran Devi Vij,  
deceased,

Claimant,

v.

NASD No. 94-02347

Shearson Lehman Hutton, Inc. a corporation;  
Raul Del Rio, an individual,  
Respondents.

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***Representation***

For Claimant: Stephen Oggel, Esq., San Diego, California

For Respondent Shearson Lehman Hutton, Inc. (Shearson): Paul Giappone, Esq., of Shearson,  
New York, New York

For Respondent Raul del Rio (del Rio): Pro se, La Jolla, California

***Case Information***

Statement of Claim filed: May 27, 1994

Claimant's Submission Agreement signed: August 29, 1994

Statement of Answer of Respondents filed on: Shearson - November 1, 1994. Although duly  
served, Respondent del Rio did not file an Answer and did not appear at the hearing.

Respondents' Submission Agreements signed on: Shearson - November 1, 1994. Although duly  
served, Respondent del Rio did not file a Submission Agreement but is subject to the jurisdiction  
of the National Association of Securities Dealers, Inc. (NASD) in accordance with Section 8 of  
the NASD Code of Arbitration Procedure.

### ***Hearing Information***

Prehearing Conference Date(s)/Sessions: June 8, 1995/one

Hearing Date/Sessions: June 20/two, 21/two, 22/two and July 6/two, 7/two, 8/two, 1995

Hearing Location: San Diego, California

### ***Case Summary***

Claimant alleged fraud, liability as a control person, failure to supervise, unsuitability and violation of the NASD Rule of Fair Practice in the purchase of high-risk securities. Claimant also alleged breach of common law fiduciary duties, violation of California Corporations Code Sections 25235, 25401, 25501 and 25504 and Civil Code Section 3372, negligence and intentional and negligent infliction of emotional distress.

Claimant further alleged that she was the daughter and personal representative of the estates of her parents, residents of Kenya. She and her parents had little knowledge of investments. Because of her inexperience she relied upon the expertise and advice of respondents. Claimant informed del Rio that her investment objective was low risk, conservative investments. During the period of September 1988 through March 1990 the account was grossly mismanaged, which Shearson did not reveal until March of 1990. During that period, del Rio made 139 purchases and sales of various investments within approximately a 16 month period. Del Rio misappropriated funds, churned the account and placed the fund at substantial risk to generate extra commissions. The account went from a value of \$261,225 to a net worth of only \$52,113.33.

Respondent del Rio did not file an Answer.

Respondent Shearson denied all allegations of the claim and alleged that all recommendations on investments were discussed thoroughly with Claimant and she was made aware of the risks. Only after such disclosure did she authorize the transactions. Shearson also alleged that the investments recommended by del Rio were entirely consistent with Vadhera's objectives. The decline in the market value of the securities, if any, was due in whole to market forces and economic conditions beyond respondents' control. At no time did respondents exercise discretionary control and each trade was followed by a confirmation and summary statement. Claimant never objected to any transactions.

### ***Relief Requested***

Claimant requested:

1. Compensatory damages;
2. Lost opportunity damages of approximately \$7,000;
3. Return of all commissions from investments purchased upon respondents' solicitation;
4. Lost earnings and interest of approximately \$156,738, since July 1988;
5. Punitive damages of \$1 million;
6. Attorney's fees, costs and interest on all damages at the California statutory rate from the date of the opening of the account.

Respondent Shearson requested the claim be dismissed and costs and fees.

### ***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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are jointly and severally liable for and shall pay Claimant \$75,000 in compensatory damages; if this award is not paid within 30 days of the date of the award, Respondents are jointly and severally liable for and shall pay Claimant interest on the award of 10% per year from the date of the award;
2. All other claims are dismissed;
3. The claim for punitive damages is dismissed;
4. The parties shall each bear their respective attorney's fees;
5. The parties shall each bear their respective costs.

### ***Other Costs***

None.

### ***Forum Fees***

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The National Association of Securities Dealers, Inc., shall retain the \$600 hearing session deposit previously paid by the claimant. Forum fees are assessed against Claimant for \$3,750, of which \$600 has been paid, and Respondents jointly and severally for \$3,750 calculated as follows:

Total forum fees assessed (one prehearing at \$300/session and 12 hearing sessions at \$600/session )	\$ 7,500
Claimant's assessment	3,750
Claimant's balance due	3,150
 Respondents' joint and several assessment	 3.750

No adjournment fees were assessed.

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

### ***Arbitration Panel***

<b><i>Name</i></b>	<b><i>Public/Industry</i></b>
Robert Ruben	Public
Virginia Wertz	Public
Robert Hughes	Industry

### ***Concurring Arbitrators' Signatures***

  
Robert Ruben

\_\_\_\_\_  
Virginia Wertz

\_\_\_\_\_  
Robert Hughes

Served 7/21/95

***Date of Decision:***

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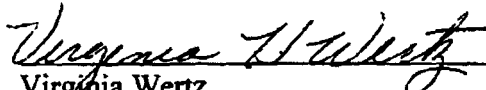
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