

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant
George Aubrey

Case Number: 02-07848

Names of the Respondents
Lehman Brothers, Inc.
Kenneth N. Goldman
David A. Gruber

Hearing Site: Pittsburgh, PA

Nature of the Dispute: Customer vs. Member and Associated Persons

REPRESENTATION OF PARTIES

Claimant, George Aubrey, hereinafter referred to as "Claimant", was represented by Frank Viola, Esq., Viola, Benedetti & Azzolini, LLC, Florham Park, New Jersey.

Respondents, Lehman Brothers, Inc. ("Lehman Bros."), Kenneth N. Goldman ("Goldman"), and David A. Gruber ("Gruber"), hereinafter collectively referred to as "Respondents", were represented by Jayant W. Tambe, Esq., Jones Day, New York, New York.

CASE INFORMATION

Statement of Claim filed on December 30, 2002.

Claimant signed the Uniform Submission Agreement on December 16, 2003.

Objection to Jurisdiction, Answer and Affirmative Defenses filed by Respondents on March 7, 2003.
Respondents did not file Uniform Submission Agreements.

Respondents filed a Motion for Summary Judgment on January 30, 2004.

Claimant filed his Opposition to Respondents' Motion for Summary Judgment on March 6, 2004.

Claimant filed his Affidavit in Support of His Opposition to Respondents' Motion for Summary Judgment on March 10, 2004.

Respondents filed their Reply in Support of Their Motion for Summary Judgment on March 16, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: violations of § 10(b) of the Exchange Act and Rule 10b-5; controlling person liability pursuant to § 20(a) of the Exchange Act; violations of Rules 2110 and 2210; negligent misrepresentation; *respondeat superior* and failure to supervise per Rule 3010, et seq.; and, common law fraud. The causes of action relate to the purchase and sale of Sunrise Technologies, Inc. common stock.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses among others: failure to state a claim upon which relief may be granted; failure to mitigate; estoppel; waiver; contributory/comparative negligence; Claimant was in *pari delicto*; assumption of the risk; and, failure to exercise reasonable diligence.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	amount unspecified
Punitive Damages	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that Claimant take nothing, that this arbitration be dismissed with prejudice with costs, reasonable attorneys' fees and sanctions taxed against Claimant, and that Respondents be awarded such other and further relief as the Arbitrators deem just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Lehman Bros., Goldman and Gruber did not file with NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and, having answered the claim, are bound by the determination of the Panel on all issues submitted.

On April 8, 2004 the Panel granted Respondents' Motion for Summary Judgment and dismissed all claims.

AWARD

After considering the pleadings, the Motion for Summary Judgment, and all responses thereto, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Claimant's claims are dismissed in their entirety;
2. The parties shall bear their respective costs including attorneys' fees, except as specifically stated herein and as Fees are addressed below; and,
3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 250.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute.

Accordingly, Lehman Bros. is a party.

Member surcharge = \$ 1,500.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,200.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$ 1,000.00 = \$ 1,000.00

Pre-hearing conference: November 14, 2003 1 session

Total Forum Fees = \$ 1,000.00

The Panel has assessed \$ 1,000.00 of the forum fees to Claimant.

Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee = \$ 250.00

Forum Fees = \$ 1,000.00

Total Fees = \$ 1,250.00

Less payments = \$ 1,250.00

Balance Due NASD Dispute Resolution = \$ 0.00

2. Respondent Lehman is assessed and shall pay:

Member Fees = \$ 4,450.00

Total Fees = \$ 4,450.00

Less payments = \$ 4,450.00

Balance Due NASD Dispute Resolution = \$ 0.00

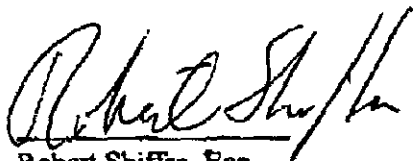
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Robert Shiffra, Esq.
N. John Marinack
Paul R. Meese

- Non-Public Arbitrator, Chairperson
- Non-Public Arbitrator, Panelist
- Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Robert Shiffra, Esq.
Public Arbitrator, Chairperson

4-29-04

Signature Date

N. John Marinack
Public Arbitrator, Panelist

Signature Date

Paul R. Meese
Non-Public Arbitrator, Panelist

Signature Date

May 6, 2004

Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No. 02-07848
Award Page 4

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N. John Marinack	-	Non-Public Arbitrator, Panelist
Paul R. Meese	-	Non-Public Arbitrator, Panelist

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Public Arbitrator, Chairperson

Signature Date

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Public Arbitrator, Panelist

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Signature Date

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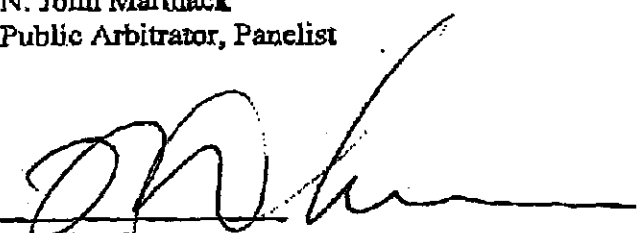
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