

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Norbert Baumann (Claimant) vs. Lehman Brothers Inc. (Respondent)

Case Number: 04-04636

Hearing Site: Cincinnati, Ohio

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

Claimant Norbert Baumann ("Baumann") hereinafter referred to as "Claimant": Joseph J. Dehner, Esq., Frost Brown Todd LLC, Cincinnati, OH.

Respondent Lehman Brothers, Inc. ("Lehman") hereinafter referred to as "Respondent": Robert N. Rapp, Esq., Clafee, Halter & Griswold LLP, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: June 25, 2004.

Claimant signed the Uniform Submission Agreement: June 25, 2004.

Statement of Answer filed by Respondent on or about: September 17, 2004.

Respondent signed the Uniform Submission Agreement: September 13, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; churning; and suitability.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$351,192.21 together with interest at the Kentucky legal rate, disgorged earnings, attorneys' fees, expert fees, costs and punitive damages as the panel finds just and equitable. After the hearing, the arbitrators should also consider a disciplinary referral.

Respondent requested that an award be rendered in its favor, as follows, dismissing the claims, in their entirety; assessing all forum fees and costs against the Claimant; and granting it such

further relief as is shown to be necessary or appropriate in the circumstances and upon consideration of the evidence.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Panel 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 compensatory damages in the amount of \$266,546.00.
2. In the event that Respondent fails to pay the Award within thirty days of the date of this Award pursuant to Rule 10330(h) of the NASD Code of Arbitration Procedure, Respondent is liable for and shall pay to Claimant interest to be calculated in accordance with Kentucky law. Interest on the award will cease to accrue upon satisfaction of the award by Respondent.
3. Respondent is liable for and shall pay to Claimant \$300.00 to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.
4. Any and all relief not specifically addressed herein 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	= \$ 300.00
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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 Brothers Inc. is a party.

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00
Total Member fees	= \$ 5,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

May 17, 18, and 19, 2005 adjournment by Respondent	= \$ 1,125.00
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Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with Panel @ \$1,125.00 per session	= \$ 2,250.00
Pre-hearing conference: November 23, 2004 1 session	
November 16, 2005 1 session	
Five (5) Hearing sessions @ \$1,125.00 per session	= \$ 5,625.00
Hearing Dates: November 30, 2005 3 sessions	
December 1, 2005 2 sessions	
Total Forum Fees	= \$ 7,875.00

1. The Panel has assessed \$7,875.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Refund Due Claimant</u>	= \$ 1,125.00

As stated in the "Award" section above, Respondent shall reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution.

2. Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Adjournment Fee	= \$ 1,125.00
<u>Forum Fees</u>	= \$ 7,875.00
<u>Total Fees</u>	= \$ 14,200.00
<u>Less payments</u>	= \$ 9,450.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 4,750.00

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

ARBITRATION PANEL

Peter F. von Meister, Esq.	- Public Arbitrator, Presiding Chairperson
Benjamin B. Segel, Esq.	- Public Arbitrator
Sandra J. Bakalus	- Non-Public Arbitrator

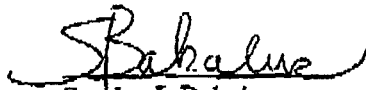
Concurring Arbitrators' Signatures

Peter F. von Meister, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Benjamin B. Segel, Esq.
Public Arbitrator

Signature Date


Sandra J. Bakalus
Non-Public Arbitrator


Signature Date

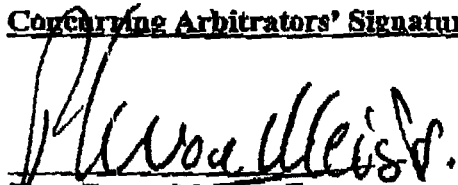
December 12, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Peter F. von Meister, Esq.	- Public Arbitrator, Presiding Chairperson
Benjamin B. Segel, Esq.	- Public Arbitrator
Sandra J. Bakalus	- Non-Public Arbitrator

Concurring Arbitrators' Signatures



Peter F. von Meister, Esq.
Public Arbitrator, Presiding Chairperson

12/08/05
Signature Date

Benjamin B. Segel, Esq.
Public Arbitrator

Signature Date

Sandra J. Bakalus
Non-Public Arbitrator

Signature Date

Decemehr 12, 2005

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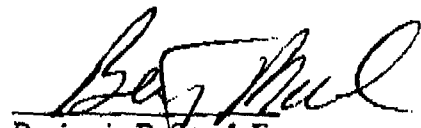
- Non-Public Arbitrator

Concurring Arbitrators' Signatures

Peter F. von Meister, Esq.

Public Arbitrator, Presiding Chairperson

Signature Date



Benjamin B. Segel, Esq.
Public Arbitrator

12/14/05
Signature Date

Sandra J. Bakalus

Non-Public Arbitrator

Signature Date

December 12, 2005
Date of Service (For NASD Dispute Resolution use only)