

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

JOHN R. BAUERLE

Claimants

and

SHEARSON LEHMAN BROTHERS, INC.

Respondents

CASE NO. 88-00165

A W A R D

CASE SUMMARY

Claimant, John Bauerle ("Bauerle") alleged the Respondent, Shearson Lehman Brothers, Inc. ("Shearson") 1) changed claimant's account from cash to margin without claimants permission; 2) made stock purchases on margin from September 10, 1985 to June 19, 1986 without claimants knowledge; 3) made unsuitable purchases for Claimants; 4) sold securities by means of untrue or omitted statements of material fact; 5) breached its fiduciary duty of care and loyalty to claimant; and 6) was negligent and failed to adequately supervise its registered representative Joseph Grunfeld.

Shearson denied each claim of Bauerle and further alleged that any claim was barred by several affirmative defenses including but not limited to estoppel, laches, ratification, contributory negligence, assumption of the risk; statute of limitations, res judicata, collateral estoppel, accord and satisfaction, and waiver.

DATED: OCTOBER 25, 1989

RELIEF REQUESTED

Claimant requested damages of 57,001.38, plus interest on its first claim of relief as set forth in its statement of claim; 57,001.38 and disgorgement of all commissions and profits made at claimant's expense plus interest on its second claim; 65,465 plus interest, costs, and attorneys fees on its third claim. Shearson requested that Claimant's claims be dismissed and costs be assessed against the claimant.

AWARD

Bauerle filed his statement of claim with the NASD on January 19, 1988. On July 20, 1989 in Omaha Nebraska, the undersigned arbitrators heard in two sessions the controversy between the parties as set forth in the submissions to arbitration signed by the Claimant on January 14, 1988, and by Bari Jane Wolf on April 20, 1988 on behalf of Shearson.

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. Each and every claim of the claimant against Shearson is hereby dismissed.
2. The parties shall bear their own respective costs and attorneys fees.
3. Pursuant to section 43 of the NASD Code of Arbitration Procedure the NASD shall retain the \$500.00 filing fee previously filed by the claimants.

By the Panel

Dated: October 10, 1989

/S/ Rosemary M. Skrupa, Esq.
Presiding Chairman

Dated: August 14, 1989

/S/ Norman Veitzer

Dated: August 14, 1989

/S/ Owen L. Saddler Jr.