

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	}	CASE NO. 88-02461
WALTER EARL COX, ARDENIA F. COX AND		
CUBA READ		
Claimants		
and		
SHEARSON LEHMAN HUTTON AND LINDY RIDINGER		
Respondents		

CASE SUMMARY

In a claim filed with the NASD on August 4, 1988 and amended on or about April 10, 1989, Claimants Walter Earl Cox, Ardenia F. Cox and Cuba Read ("Claimants") alleged that Respondents Lindy Ridinger and Shearson Lehman Hutton engaged in unauthorized trading in their accounts; that their trading accounts were churned and that the trades placed in their accounts were highly speculative in nature. Claimants stated that they were not suitable for the highly speculative option trading. The Claimants further alleged that Respondent Shearson Lehman Hutton failed to supervise Lindy Ridinger to the extent that Lindy Ridinger was allowed to engage in criminal activity in connection with Claimants' accounts. Claimants stated that the conduct alleged violates the Racketeer Influenced and Corrupt Organization Act ("RICO").

In its Answer filed with the NASD on October 3, 1988 and in its Answer to the Amended Statement of Claim and Cross Claim against Respondent Lindy Ridinger, Respondent Shearson Lehman Hutton denied all allegations of Claimants and contended that it took those steps that a reasonably prudent brokerage firm would take to monitor the activities of its broker. Respondent Shearson Lehman Hutton stated that Claimants received confirmations and monthly statements and did not notify supervisory personnel of any problems in their account. Shearson Lehman Hutton contended that Claimants have not properly plead and cannot prove the requisite elements of a RICO violation.

Respondent Lindy Ridinger has failed to file an Answer in this proceeding or appear at the hearing. Pursuant to Section 29 of the Code of Arbitration Procedure the arbitration panel proceeded with the arbitration hearing in the absence of Lindy Ridinger. Section 29 of the Code of Arbitration Procedure provides that in the case where a party failed to appear and the arbitrators proceeded with the hearing, all awards shall be rendered as if the party had entered on appearance.

RELIEF REQUESTED

Claimants requested an award of \$304,312.48 as compensatory damages for the account of Walter Earl Cox and Ardenia F. Cox; compensatory damages of \$32,215.67 for the account of Cuba Read and Ardenia F. Cox; treble damages as allowed under the RICO laws; punitive damages and attorneys' fees.

Respondent Shearson Lehman Hutton requested that the Amended Statement of Claim be denied and that it be awarded its reasonable attorneys fees. Shearson Lehman Hutton requested indemnification from Respondent Lindy Ridinger.

PROCEDURAL SUMMARY

On Friday, November 10, 1989 a pre-hearing conference pursuant to Section 32(e) of the Code of Arbitration Procedure was conducted which lasted one session. On Wednesday, November 22, 1989 a second pre-hearing conference pursuant to Section 32(e) of the Code of Arbitration Procedure was conducted which lasted one session.

The hearing was held on December 13 and 14, 1989 in Oklahoma City, Oklahoma and lasted five sessions. The undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on July 7, 1988 by Claimants, Walter Earl Cox, Ardenia F. Cox and Cuba E. Read and on September 30, 1988 by William D. Sims, Jr. on behalf of Respondent Shearson Lehman Hutton, Inc. Respondent Lindy Ridinger did not file a uniform submission agreement, but is required to submit this controversy to arbitration pursuant to the NASD By-Laws and by Section 12(a) of the Code of Arbitration Procedure and is therefore bound by this Award.

AWARD

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

COX CLAIM

1. Shearson Lehman Hutton and Lindy Ridinger are jointly and severally liable for and shall pay to Walter Earl Cox and Ardenia F. Cox, the sum of Two Hundred Three Thousand Six Hundred Ninety One Dollars and Sixty Five Cents (\$203,691.65);

2. Interest at the rate of 10% per annum is awarded on the above stated sum, from and inclusive of May 22, 1986 to and inclusive of the date this award is paid;

3. The amount of damages payable to Walter Earl Cox and Ardenia F. Cox stated in paragraph 1 above shall be trebled. In making this award of treble damages to Walter Earl Cox and Ardenia F. Cox, the panel considered the federal case law and authorities cited in Claimants' and Respondents' memoranda as well as 18 U.S.C. Section 1961 et seq. Title IX of the Organized Crime Control Act of 1970, entitled "Racketeer Influenced and Corrupt Organizations" ("RICO") and determined that authority existed for an award of treble damages in favor of Claimants Walter Earl Cox and Ardenia F. Cox;

4. Shearson Lehman Hutton and Lindy Ridinger are also jointly and severally liable for and shall pay to Walter Earl Cox and Ardenia F. Cox the sum of One Hundred Eighty Thousand Dollars (\$180,000.00) as attorneys fees. In determining to award attorneys fees to Claimants Walter Earl Cox and Ardenia F. Cox, the panel considered the federal authorities cited and the arguments set forth by the parties in addition to 18 U.S.C. Section 1961 et seq. Title IX of the Organized Crime Control Act of 1970, entitled "Racketeer Influenced and Corrupt Organizations" ("RICO") and determined that authority existed for an award of attorneys fees in favor of Claimants Walter Earl Cox and Ardenia F. Cox;

5. Shearson Lehman Hutton shall be liable for and shall pay to Walter Earl Cox and Ardenia F. Cox the sum of Two Hundred Three Thousand Six Hundred Ninety one and 65/100 Dollars (\$203,691.65) as punitive damages. The assessment of punitive damages was awarded after the panel considered the evidence presented and the parties' arguments;

6. The total dollar amount awarded in paragraphs one (1); three (3); four (4); and five (5) above is Nine Hundred Ninety Four Thousand Seven Hundred Sixty Six Thousand Dollars and 60/100 (\$994,766.60) plus interest as stated in paragraph two (2) above.

READ CLAIM

1. Shearson Lehman Hutton and Lindy Ridinger are jointly and severally liable for and shall pay to Cuba E. Read and Ardenia F. Cox, the sum of Ten Thousand One Hundred Seventy Three Dollars and Seventy Three Cents (\$10,173.73);

2. Interest at the rate of 10% per annum is awarded on the above stated sum, from and inclusive of May 22, 1986 to and inclusive of the date this award is paid;

3. The amount of damages payable to Cuba E. Read and Ardenia F. Cox stated in Paragraph 1 above shall be trebled. In making this award of treble damages to Cuba E. Read and Ardenia F. Cox, the panel considered the federal case law and authorities cited in Claimants' and Respondents' memoranda as well as 18 U.S.C. Section 1961 et seq. Title IX of the Organized Crime Control Act of 1970, entitled "Racketeer Influenced and Corrupt Organization ("RICO") and determined that authority existed for an award of treble damages in favor of Claimants Cuba E. Read and Ardenia F. Cox;

4. Shearson Lehman Hutton and Lindy Ridinger are also jointly and severally liable for and shall pay to Cuba E. Read and Ardenia F. Fox the sum of Twenty Thousand Dollars (\$20,000.00) as attorneys fees. In determining to award attorneys fees to Claimants Cuba E. Read and Ardenia F. Cox, the panel considered the federal authorities cited and the arguments set forth by the parties in addition to 18 U.S.C. Section 1961 et seq. Title IX of the Organized Crime Control Act of 1970, entitled "Racketeer Influenced and Corrupt Organization ("RICO") and determined that authority existed for an award of attorneys fees in favor of Claimants Cuba E. Read and Ardenia F. Cox;

5. Shearson Lehman Hutton shall be liable for and shall pay to Cuba E. Read and Ardenia F. Cox the sum of Ten Thousand One Hundred Seventy Three and 73/100 (\$10,173.73) as punitive damages. The assessment of punitive damages was awarded after the panel considered the evidence presented and the parties' arguments;

6. The total dollar amount awarded in paragraphs one (1); three (3); four (4) and five (5) above is Sixty Thousand Six Hundred and Ninety Four and 92/100 (\$60,694.92) plus interest as stated in paragraph two (2) above.

SHEARSON CROSS CLAIM

1. Based on the evidence presented, the cross claim of Shearson Lehman is denied.

Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$750.00 filing fee previously deposited with the NASD by the Claimant. Respondent shall directly reimburse Claimants Walter Earl Cox, Ardenia F. Cox and Cuba E. Reid for the \$750.00 filing fee by the NASD and Respondent. Shearson Lehman Hutton is further assessed and shall pay to the NASD as additional forum fees, the sum of \$5,250.00.

By the Panel

Dated: Jan. 25, 1980

/S/

Irving L. Faught
Irving L. Faught, Esq.
Presiding Chair

Dated: _____

/S/

John R. Preston, Esq.

Dated: _____

/S/

Roy V. Montgomery, Jr.

100-8-88

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By the Panel

Dated: _____ /S/ _____
Irving L. Faught, Esq.
Presiding Chair

Dated: 1-25-81 /S/ _____
John R. Preston, Esq.

Dated: _____ /S/ _____
Roy V. Montgomery, Jr.

Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$750.00 filing fee previously deposited with the NASD by the Claimant. Respondent shall directly reimburse Claimants Walter Earl Cox, Ardenia F. Cox and Cuba E. Reid for the \$750.00 filing fee by the NASD and Respondent. Shearson Lehman Hutton is further assessed and shall pay to the NASD as additional forum fees, the sum of \$5,250.00.

By the Panel

Dated: _____ /S/ _____
Irving L. Faught, Esq.
Presiding Chair

Dated: _____ /S/ _____
John R. Preston, Esq.

Dated: 1/25/90 /S/ Roy V. Montgomery, Jr.
Roy V. Montgomery, Jr.