

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between)	
John R. Lewis)	Claimant
vs.)	
Smith Barney Harris Upham)	
& Co., Inc.)	Respondent

AWARD
#88-02589

SUMMARY OF ISSUES

This case was filed with the NASD on August 15, 1988. Claimant alleged that Respondent acted negligently in the handling of his account. Specifically, Claimant alleged that on October 16, 1987 he placed an order with his broker, employed by Respondent, to exercise Claimant's 100 Alcoa October 55 call options causing him to purchase 10,000 shares of Alcoa common stock; on October 19, 1987, prior to receiving confirmation that the calls were exercised Claimant placed a stop loss order on his 10,000 shares at \$50 per share which was confirmed as executed at \$49 1/4 per share; that he was then informed that the execution of the Alcoa October 55 calls had not been accomplished and had expired unexecuted leaving him short on 10,000 shares of Alcoa as of October 19, 1987; and that on October 23, 1987 he covered his short position by purchasing 10,000 shares of Alcoa at \$38 1/8 per share which was confirmed to him on October 26, 1987. Claimant further alleged that on October 26, 1987 he received a statement from Respondent showing the expiration of the 100 Alcoa October 55 calls which was contradicted on October 29, 1987 when he received written notification from Respondent that the calls were exercised on October 16, 1987 and that his short cover purchase of 10,000 shares of Alcoa on October 23, 1987 was cancelled.

Respondent maintained that Claimant's order on October 16, 1987 to exercise his 100 Alcoa October 55 calls, causing him to own 10,000 shares of Alcoa common stock, and his stop loss order on October 19, 1987 to sell those shares were in fact executed as placed. Respondent further maintained that Claimant's Alcoa options would have been exercised automatically pursuant to Rule 805 (f) of the Options Clearing Corporation even if Claimant had not placed the order himself. Respondent further maintained that due to the confusion in the market during this period it

initially reported that Claimant's options had expired; that report was erroneous and was corrected to Claimant; and Respondent properly cancelled Claimant's short cover purchase because Claimant was never short Alcoa common stock.

DAMAGES AND RELIEF REQUESTED

Claimant requested damages in the amount of \$190,000.00.

Respondent requested dismissal of the claim and costs, as presented at the hearing on March 6, 1990, in the amount of \$1,440.90.

DAMAGES AND RELIEF AWARDED

On March 6, 1990, the hearing in this matter was convened and held open for two (2) hearing sessions waiting for Claimant or his counsel to make an appearance. The arbitrators closed the hearing and entered an Order assessing costs and fees against Claimant which, if satisfied, would result in the rescheduling of the hearing on the merits.

On July 24, 1990, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on October 5, 1988 and by Respondent on December 22, 1988.

The hearing was conducted in Los Angeles, California and lasted one (1) session.

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

1. Claimant is awarded the sum of Thirty Five Thousand Dollars and Zero Cents (\$35,000.00).
2. Claimant is further award interest at ten percent (10%) on the principal sum of \$35,000.00 calculated from October 31, 1987 to the date this award is paid.
3. The parties shall each bear their respective costs including attorneys' fees.
4. In accordance with Section 43 of the NASD Code of Arbitration Procedure:
 - a) The NASD shall retain the \$750.00 filing fee previously deposited by the Claimant; and

- b) The NASD shall retain the \$750.00 forum fee and \$200 postponement fee previously assessed against Claimant in the Order of Arbitrators issued on March 21, 1990.

OTHER ISSUES

The hearing in this matter concluded on July 24, 1990 at which time the presiding arbitrators requested post-hearing submissions to be filed by the parties which were transmitted to the arbitrators on September 17, 1990.

The parties stipulated to the execution and service of the award in counterpart copies.

ARBITRATORS CONCURRING

DATE SERVED: 10/23/90



Herbert Leslie Greenberg

- b) The NASD shall retain the \$750.00 forum fee and \$200 postponement fee previously assessed against Claimant in the Order of Arbitrators issued on March 21, 1990.

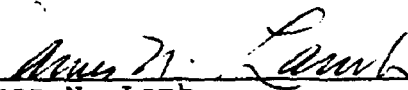
OTHER ISSUES

The hearing in this matter concluded on July 24, 1990 at which time the presiding arbitrators requested post-hearing submissions to be filed by the parties which were transmitted to the arbitrators on September 17, 1990.

The parties stipulated to the execution and service of the award in counterpart copies.

ARBITRATORS CONCURRING

DATE SERVED: 10/23/90


James N. Lamb

- b) The NASD shall retain the \$750.00 forum fee and \$200 postponement fee previously assessed against Claimant in the Order of Arbitrators issued on March 21, 1990.

OTHER ISSUES

The hearing in this matter concluded on July 24, 1990 at which time the presiding arbitrators requested post-hearing submissions to be filed by the parties which were transmitted to the arbitrators on September 17, 1990.

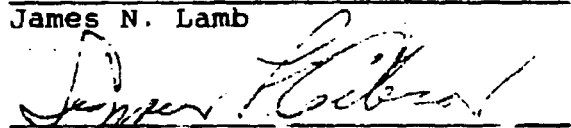
The parties stipulated to the execution and service of the award in counterpart copies.

ARBITRATORS CONCURRING

DATE SERVED: 10/23/90

Herbert Leslie Greenberg

James N. Lamb



Seymour L. Gibson