

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Alina M. Rivero

Claimant(s)

and

CASE NO. 89-02464

Shearson Lehman Hutton Inc.

Respondent(s)

CASE SUMMARY

In a statement of claim filed with the NASD on or about September 5, 1989, Claimant Alina M. Rivero ("Rivero") alleged that Respondent Shearson Lehman Hutton Inc. ("Shearson") violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10-b-5 promulgated thereunder. Rivero alleged that her broker, John Terzian, as an agent of Shearson, took advantage of Rivero's inexperience and lack of sophistication. Rivero alleged that highly speculative equity securities and options were bought and sold for her account which were unsuitable for her given her investment objectives. Shearson also allegedly failed to properly supervise its agent. Rivero further alleged that her account was excessively traded and that the conduct complained of violated the Missouri securities law. Additional claims included breach of fiduciary duty and common law fraud.

In its answer to the Statement of Claim filed with the NASD on or about November 22, 1989, Shearson maintained that the transactions involving options were suitable for Rivero based on the information provided Shearson, her failure to respond to a negative consent letter confirming that information sent to her following the opening of her account and the fact that Rivero never complained of the activity in her account.

RELIEF REQUESTED

Rivero requested damages of \$85,000, punitive and exemplary damages, costs, interest and attorney's fees. Shearson requested dismissal of the claim.

AWARD

On Wednesday and Thursday, May 23 and May 24, 1990 in St. Louis, Missouri, during a hearing lasting three (3) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on September 1, 1989 by Claimant Alina M. Rivero, and on November 14, 1989 by William A. Hohauser on behalf of Respondent Shearson Lehman Hutton Inc.

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. Shearson is liable for and shall pay to Rivero the sum of Ten Thousand Dollars and No Cents (\$10,000.00);

2. Rivero's claim for punitive damages shall be and is hereby dismissed in its entirety;

3. Interest at the rate of 9% per annum is awarded on the sum Shearson owes Rivero from and inclusive of May 24, 1990 to and inclusive of the date the award is paid;

4. The parties shall each bear their respective costs and attorney's fees and any other expenses not set forth in this award; and

5. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$500.00 filing fee previously deposited with the NASD by the Claimant Alina M. Rivero. Additional forum fees in the amount of \$1,000.00 are assessed and shall be paid by Rivero to the NASD.

By the Panel

Dated: 05/24/90 /S/ Paul A. Grana
Presiding Chair

Dated: 05/24/90 /S/ M. Peter Lux

Dated: 05/24/90 /S/ Raymond Allen Moore

Date Served: 05/31/90

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Report of Arbitrators
CASE NO. 89-02464

CASE SUMMARY

The panel of arbitrators based their decision on an appointment of fault. It is the finding of the panel that the Claimant was negligent in failing to notify Respondent of her concerns and apprehensions regarding her account, in failing to review and correct untrue information on the client information forms and in confirming to Respondent in writing that the trades were acceptable to Respondent. Respondent failed to adequately supervise registered representative Terzian in that the volume of trading in Claimant's account, the amount of commissions generated by Claimant's account, the high proportion of Terzian's income generated by Claimant's account and the fact that Claimant's account was a discretionary account should have caused Respondent's branch manager to meet personally with Claimant and Terzian on at least one of the several instances on which Claimant was present in Respondent's office.

By the Panel

Dated: 05/24/90

/S/ Paul A. Grana
Presiding Chair

Dated: 05/24/90

/S/ M. Peter Lux

Dated: 05/24/90

/S/ Raymond Allen Moore