

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	)	
Charles R. Tarver	)	
Claimant	)	
vs.	)	AWARD
Shearson Lehman Hutton	)	
Brothers, Inc., aka	)	
Shearson Lehman Hutton, Inc. Respondents	)	CASE NO. 89-02526

SUMMARY OF ISSUES

Claimant alleged that Respondent, through its employee broker, (1) failed to execute an order to sell 2000 shares of Repligen common stock, and (2) executed an unauthorized purchase of 2000 shares of Stan West Mining Corporation common stock.

Respondent denied all allegations, and asserted that Claimant's order to sell Repligen stock was placed at a limit price above the market price, rendering execution impossible. Respondent further asserted that Claimant specifically authorized the purchase on margin of Stan West stock. Respondent alleged the decline in the value of Claimant's stocks resulted in a margin call in Claimant's account, forcing Respondent to liquidate the account when Claimant failed and refused to deposit cash into the account. The forced liquidation left a debit balance in the account for which Respondent asserted a counterclaim.

DAMAGES AND RELIEF REQUESTED

At hearing, Claimant requested damages of \$5,500 plus interest and relief from the outstanding debit balance and accrued debit interest.

Respondent requested dismissal of Claimant's claim and an award of the \$6,900.00 debit balance plus interest to date.

PROCEDURAL SUMMARY

This claim was filed with the NASD on September 11, 1989. On July 24, 1990, the undersigned arbitrators heard the controversy between the parties pursuant to submissions to arbitration signed by Claimant on May 26, 1989, and by Respondent on November 8, 1989. The hearing was conducted in Los Angeles, California and lasted two (2) sessions.

DAMAGES AND RELIEF AWARDED

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

1. All claims brought by Claimant are dismissed.
2. The counterclaim is dismissed.
3. The parties shall each bear their respective costs including attorney's fees.
4. In accordance with Section 43 of the NASD Code of Arbitration Procedure, the NASD shall retain the \$400.00 filing fee previously deposited by the Claimant as an assessment of forum fees. The \$200.00 filing fee previously deposited by Respondent will also be retained, and an additional \$200.00 is assessed against Respondent for forum fees.

ARBITRATORS CONCURRING

DATE SERVED: 10/19/90

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Alvin B. Asher  
Alvin B. Asher