

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between

Name of Claimant

James H. Weisberg, individually and as  
custodian of Jamie Weisberg, Matthew Weisberg,  
Kelsi Weisberg and Michael Weisberg

and

90-00468

Name of Respondent, Third Party Claimant

Shearson Lehman Hutton, Inc. n/k/a  
Shearson Lehman Brothers, Inc.

Name of Third Party Respondent

William Foster

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REPRESENTATION OF PARTIES

Claimants was represented by Richard M. Kranzler, Esq. of  
Zuckerman & Kleinman, P.C., Denver, CO.

Respondent, Third Party Claimant was represented by John S. Lutz,  
Esq. of Kelly, Stansfield & O'Donnell, Denver, CO.

Third Party Respondent appeared pro se.

CASE INFORMATION

The Statement of Claim was filed on or about February 14, 1990.  
Claimant's Submission Agreement signed on February 9, 1990 by  
James Weisberg and on March 29, 1990 by Kelsi Weisberg.

Statement of Answer filed by Respondent, Third Party Claimant on  
or about April 19, 1990. Third Party Claim filed on or about  
March 7, 1991. Respondent Shearson Lehman Hutton, Inc. n/k/a  
Shearson Lehman Brothers, Inc.'s Submission Agreement signed on  
April 3, 1990 by William A. Hohauser.

Statement of Answer filed by William Foster on or about March 30,  
1990. Statement of Answer to the Third Party Claim filed by  
William Foster on or about May 13, 1991. Third Party Respondent  
William Foster's Submission Agreement signed on March 22, 1990.

#### HEARING INFORMATION

The hearing was held on Thursday, August 20, 1992 in Denver, Colorado for a total of two (2) sessions.

#### CASE SUMMARY

Claimant alleged that Respondents William Foster and Shearson Lehman Hutton, Inc. n/k/a Shearson Lehman Brothers, Inc. failed to execute a transfer as directed. Claimant specifically alleged that William Foster failed to transfer funds invested in Value Line Centurion, a mutual fund.

Respondent Shearson Lehman Brothers, Inc. denied the allegations set forth in the Statement of Claim. Shearson Lehman Brothers, Inc. further stated that the Claimant, James Weisberg was an experienced and wealthy investor and that the transfer forms were in fact transmitted to Guardian Insurance and Annuity Company for transfer of the funds. In its Third Party Claim against William Foster, Shearson Lehman Brother, Inc. seeks indemnification from Mr. Foster to the extent of its' liability to the Claimants, if any.

Third Party Respondent William Foster in his original answer to the Statement of Claim stated that he followed the instructions necessary to effect the transfer requested by the Claimant. In the Answer to the Third Party Claim asserted against him, William Foster denied any wrongdoing with respect to the transactions complained of by the Claimant.

#### RELIEF REQUESTED

Claimant requested an award in the total amount of \$50,750.36, interest, fees and costs.

Respondent/Third Party Claimant requested that the claims asserted against it be denied and an award against Third Party Respondent of any amounts awarded to the Claimant against it.

Third Party Respondent requested that the claims asserted against him in this matter be denied.

#### OTHER ISSUES CONSIDERED & DECIDED

By letter dated April 20, 1990, Claimant advised the NASD that he wished to have William Foster dismissed as a Respondent in this matter.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The claims asserted herein shall be and hereby are dismissed in their entirety.
2. The third party claim asserted herein shall be and hereby is dismissed in its entirety.
3. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain the hearing session deposit in the amount of \$350.00 previously deposited with the NASD by the Claimant and Claimant shall pay to the NASD the sum of \$650.00 as forum fees.

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each prehearing conference, if any. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

\_\_\_\_\_  
  
August 31, 1992

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Jim Ellerton  
Presiding Chair  
Public Arbitrator

Aleron H. Larson Sr.  
Aleron H. Larson, Sr., Esq.  
Public Arbitrator

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Michael E. McCarthy  
Industry Arbitrator

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Dated:

8/31/22



Jim Ellerton  
Presiding Chair  
Public Arbitrator

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Aleron H. Larson, Sr., Esq.  
Public Arbitrator

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Michael E. McCarthy  
Industry Arbitrator

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Dated:

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Jim Ellerton  
Presiding Chair  
Public Arbitrator

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Aleron H. Larson, Sr., Esq.  
Public Arbitrator

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August 29, 1992

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Michael E. McCarthy  
Michael E. McCarthy  
Industry Arbitrator