

PUBLIC

NASD

AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

James P. Stecklow

91-00157

Name of Respondents

Shearson, Lehman Brothers, Inc.
Daniel L. Caso

REPRESENTATION

For Claimant James P. Stecklow ("Claimant"): Timothy J. Koral, a sole practitioner.

For Respondents Shearson Lehman Brothers, Inc. ("Shearson") and Daniel L. Caso ("Caso"): Jerry Santangelo, of Neal Garber et al.

CASE INFORMATION

Statement of Claim filed: January 15, 1991.

Claimant's Submission Agreement signed on: March 20, 1991.

Joint Statement of Answer filed by Respondents on: October 4, 1991.

Respondent Shearson's Submission Agreement signed on: September 20, 1991.

Respondent Caso's Submission Agreement signed on: September 28, 1991; however, this document was not notarized properly.

HEARING INFORMATION

Hearing Date/Sessions: April 30, 1992/2 sessions.

Hearing Location: NASD, Inc., Cleveland, OH.

CASE SUMMARY

Claimant alleged when Caso solicited his account he told Caso he was seventy-three (73) years old and his financial goal was conservative long-term investments; he stated any trades were to be in blue chip stocks. Claimant alleged he deposited \$5,431.90 to purchase 300 shares of Sears stock when Caso requested more funds. Claimant alleged Caso suggested Claimant margin his treasury bond account. Claimant alleged the first trades in his account were in Sears, A.D.T. and Gillette; however the holding periods were less than 6 months. Claimant alleged when he brought the periods of investment to Caso's attention, Caso stated it would be better to move onto something else. Claimant alleged the time span for successive investments

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was less than 6 month each. Claimant alleged the stocks were not of blue chip quality. Claimant alleged Caso became belligerent when confronted and did not compromise. Claimant alleged Caso was not readily available and that he was never advised about the several margin calls until they arrived in the mail. Finally, Claimant alleged Caso never called unless he wanted to make a trade for him and that he deposited \$46,818.00 in the account with a loss of \$38,059.04 and paid interest charges for margin on the bond account of more than \$5,700.00 per year.

Respondents denied Claimant's account was churned; denied the recommendations made to Claimant were unsuitable; maintained Claimant told Caso one of his investment objectives was "appreciation with risk"; that all transactions were executed with Claimant's knowledge; and that Claimant sustained approximately seventy five (75%) percent of his losses on two transactions. Respondents asserted Claimant knew Caso could not guarantee that his recommendations would ultimately be profitable. Caso conceded he was unaware of certain adverse financial developments relative to Claimant's economic status after Claimant opened his Shearson account; however, Respondents asserted Claimant refused to disclose these developments to Caso in a timely manner.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of a minimum of \$50,000.00.

Respondents requested: the arbitrators enter an award of no liability.

OTHER ISSUES CONSIDERED & DECIDED

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 originals remain on file with the NASD.

1- Pursuant to the by-laws of the NASD, the arbitration panel in this matter has determined that Caso is a proper party in this matter and is subject to the rulings and determinations of this panel.

VERDICT

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 claim of the Claimant James P. Stacklow is denied;
- 2- All other claims are denied;

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3- Each party shall bear its own expenses, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$120.00 non-refundable filing fee previously deposited by Claimant and the following Forum Fees are assessed.

2 sessions X \$400.00 = \$800.00 minus hearing session deposit of \$400.00 = net \$400.00 due.

Forum fees Assessed Against:

1- Claimant, in the amount of \$400.00; however, in lieu of further payment the NASD shall retain Claimant's \$400.00 hearing session deposit;

2- Respondents, Shearson and Case, jointly and severally, in the amount of \$400.00.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures


Charles J. Clinton
Charles J. Clinton/Public Arbitrator

Date of Decision: June 10, 1992

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Dennis E. Mimi/Public Arbitrator

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Concurring Arbitrators' Signatures

 5/12/92
Charles H. Joseph/Industry Arbitrator

Date of Decision: June 10, 1992