

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between)

Name of Claimant(s))

Joseph Maenza)

Name of Respondent(s))

Shearson Lehman Hutton, Inc.)

Case No. 91-00560

REPRESENTATION

For Claimant, Joseph Maenza ("Maenza"): Howard N. Kahn, Esq. of Atlas, Pearlman & Trop, P.A.

For Respondent, Shearson Lehman Hutton, Inc. ("Shearson"): William A. Hohauser, Esq. of Shearson.

CASE INFORMATION

Statement of Claim filed: February 20, 1991. Claimant's Submission Agreement signed on: April 29, 1991.

Respondent's Statement of Answer filed on: July 8, 1991. Respondent's Submission Agreement signed by William A. Hohauser on behalf of Shearson on June 13, 1991.

HEARING INFORMATION

On November 18, 1991, in Fort Lauderdale, Florida, a hearing lasting one session was conducted.

CASE SUMMARY

Claimant alleged that in April 1990, Respondent had intentionally debited Claimant's account to offset a credit from February 1988, two years after the deposit entries, in breach of the parties' contract.

Respondent denied all allegations of wrongdoing and alleged that Claimant was an aggressive shrewd man; that Claimant deposited both a check and the check stub into his Shearson account; that Claimant was unjustly enriched until Shearson realized the error in April 1990; that Claimant's interpretation of the client agreement is erroneous; and, Shearson was entitled to the return of its funds.

RELIEF REQUESTED

Claimant requested damages in the amount of \$2,753.97, interest from April 1, 1990, punitive damages, attorney's fees and costs.

Respondent requested dismissal and attorney's fees for a flagrantly bad faith claim.

OTHER ISSUES CONSIDERED & DECIDED

Pursuant to Respondent's request and Claimant's consent thereto, Respondent, its counsel and its witnesses were permitted to appear via telephone.

AWARD

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

1. Respondent is found not liable and, therefore, all claims against it are hereby dismissed.
2. Claimant's requests for attorney's fees, costs and punitive damages are denied.
3. Respondent's request for attorney's fees is denied.

OTHER COSTS

The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding.

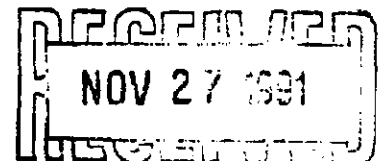
FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$100.00 (one session x \$100.00). Claimant is hereby assessed \$100.00 for which the NASD shall retain the \$100.00 previously deposited in full satisfaction thereof. The NASD shall also retain the \$50.00 non-refundable filing fee paid by Claimant. The NASD shall refund the \$75.00 over-payment to Claimant.

Arbitrator's Signature
Name

Public

Louise T. Jerslow
Louise T. Jerslow, Esq.



Date of Decision:

Nov 28, 1991