

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 Claimants

Carlos & Maria Uribe

91-01098

Name of Respondents

Shearson Lehman Brothers, Inc.
Kidder, Peabody & Co., Incorporated
Joseph Wofchuck
Gabriel Cepero
Pat Guadagno

REPRESENTATION

For Claimants: Saul R. Roffe, Esq. of Sirota & Sirota.

For Respondents, Shearson Lehman Brothers, Inc. and Pat Guadagno: Matthew Farley, Esq. of Shanley & Fisher.

For Respondents, Kidder, Peabody & Co., Inc., Joseph Wofchuck and Pat Guadagno (to the extent the allegations concern the period he was employed at Kidder, Peabody & Co., Inc.): Pamela G. Armstrong, Esq. of Kidder, Peabody & Co., Inc.

For Respondent, Gabriel Cepero: Anthony J. Ferrara, Esq. of Polstein & Ferrara, P.C.

CASE INFORMATION

Statement of Claim filed: April 1, 1991.

Claimants' Submission Agreement signed on: March 23, 1991.

Joint Statement of Answer filed by Respondents, Kidder, Peabody & Co., Inc., Joseph Wofchuck and Pat Guadagno on: July 18, 1991.

Respondent, Kidder, Peabody & Co., Inc.'s Submission Agreement signed on: July 17, 1991.

Respondent, Joseph Wofchuck's Submission Agreement signed on: July 18, 1991.

Joint Statement of Answer filed by Respondents, Shearson Lehman Brothers, Inc. and Pat Guadagno on: July 16, 1991.

Respondent, Shearson Lehman Brothers, Inc.'s Submission Agreement signed on: November 13, 1991.

Respondent, Pat Guadagno's Submission Agreement signed on: November 6, 1991.

Statement of Answer filed by Respondent, Gabriel Cepero, on May 22, 1992.

Respondent, Gabriel Cepero, did not submit an signed Submission Agreement.

HEARING INFORMATION

Hearing Dates/Sessions: March 26, 1992 - Two sessions.
 March 27, 1992 - One Session.
 August 19, 1992 - Two Sessions.

Hearing Location: NASD, Inc. - New York, NY.

CASE SUMMARY

Claimants, alleged that they opened two accounts with Respondent, Kidder, Peabody & Co., Inc. ("Kidder") and that the account representatives were Respondent, Pat Guadagno ("Guadagno") and Respondent, Joseph Wofchuck ("Wofchuck"). Claimants alleged that without their knowledge or consent, Guadagno caused their accounts to be transferred to Respondent, Shearson Lehman Brothers, Inc. ("Shearson") where they were opened as margin accounts.

Claimants alleged that Guadagno executed trades in Claimants' accounts without their knowledge, consent and authorization. Claimants alleged that they never received account documents, since Guadagno instructed their account statements to be sent to Gabriel Cepero, a relative of the Claimants.

Claimants alleged that the acts of the Respondents caused a loss in their account. Claimants alleged that Shearson failed to properly supervise Guadagno. Claimants alleged that Kidder failed to supervise Wofchuck, in that they allowed Wofchuck to close their account when he was without knowledge of their consent.

Respondents, Kidder, Wofchuck and Guadagno (collectively, "Kidder Respondents") maintained that the Claimants specifically requested that no account statements be sent to them, but that all documents be sent to Gabriel Cepero. Kidder Respondents maintained that the Claimant, Carlos Uribe, ("Mr. Uribe") told Kidder that he was unhappy with the account Guadagno was handling. Kidder Respondents maintained that Mr. Uribe requested that the account be liquidated and that a check be sent to him for the proceeds. Kidder Respondents maintained that this was done and the check was sent to the Claimants, care of Gabriel Cepero.

Kidder Respondents maintained that the same thing happened in connection with the account that Wofchuck was handling. Kidder Respondents maintained that they acted properly at all times with respect to the Claimant's accounts.

Respondents, Shearson and Guadagno, (collectively, "Shearson Respondents") maintained that the Claimants deposited a total of four checks into their Shearson account, and that they fully intended to do so. Shearson Respondents maintained that the negotiation on the checks was done with the express consent of the Claimants. Shearson Respondents maintained that the investments in the Claimants' accounts were fully discussed with the Claimants. Shearson Respondents maintained that the losses in the Claimants' accounts were not due to misconduct or mismanagement by them, but to the adverse market conditions.

Respondent, Gabriel Cepero ("Cepero"), maintained that he is a relative of Claimant, Maria Uribe. Cepero maintained that the Claimants asked him to introduce them to a registered representative at Kidder, Peabody, where Cepero worked as a computer programmer. Cepero maintained that Claimants opened two accounts at Kidder, and used his address in New Jersey as a mailing address. Cepero maintained that the Claimants did not want any correspondence to go to their home in Colombia.

Cepero maintained that he acted as agent for the Claimants when they had their accounts transferred to Shearson. Cepero maintained that all trading activities were monitored by the Claimants. Cepero maintained that he did not receive any funds from the Claimants' accounts, and that at most, he acted solely as the authorized agent of the Claimants.

RELIEF REQUESTED

Claimants requested damages of \$126,952.14 against Respondents, Pat Guadagno, and Shearson Lehman Brothers, Inc. Claimants requested damages in the amount of \$27,543.78 against Respondents Joseph Wofchuck and Kidder, Peabody & Co., Inc. Claimants requested costs and expenses of this proceeding including attorney's fees and expert's fees.

Respondents, Kidder, Wofchuck and Guadagno requested that the Claim be dismissed in its entirety and that the costs be assessed against the Claimants.

Respondents, Shearson and Guadagno, requested that the Claim be dismissed in its entirety and that costs, including attorney's fees be awarded against the Claimants.

Respondent, Gabriel Cepero, requested that the Claim be dismissed in its entirety, insofar as it relates to him.

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.

Pursuant to the by-laws of the NASD, the panel determined that Respondent, Gabriel Cepero, was required to submit to this arbitration, notwithstanding his failure to submit an executed Submission Agreement. Accordingly, Respondent, Gabriel Cepero, is hereby bound by this panel's rulings and determinations.

Respondent, Gabriel Cepero, together with his Statement of Answer, moved to dismiss for lack of jurisdiction. The panel denied Cepero's Motion.

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 panel finds no evidence of any impropriety in the management of the Claimants' accounts by the Respondent, Joseph Wofchuck and accordingly, the Claims against this Respondent are hereby dismissed with prejudice to renewal.
2. The Claims against Respondent, Kidder, Peabody, are hereby dismissed with prejudice to renewal.
3. The Claims against Respondent, Gabriel Cepero, are hereby dismissed.
4. Respondent, Shearson Lehman Brothers, Inc., is hereby liable and shall pay to the Claimants the sum of \$40,000.00 (FORTY THOUSAND DOLLARS AND 00/100). This amount is exclusive of interest.
5. Respondent, Pat Guadagno, is hereby liable and shall pay to the Claimants, the sum of \$5,000.00 (FIVE THOUSAND DOLLARS). This amount is exclusive of interest.
6. Each party shall bear their respective costs and expenses of this action, including attorney's fees.

FORUM FEES

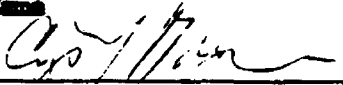
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

Non-refundable filing fee of \$ 200.00
Hearing Session Fees: \$3,750.00 (5 Sessions x \$750.00)

1. Respondents, Shearson Lehman Hutton, Inc. and Pat Guadagno, are hereby liable for all forum fees in the amount of \$3,950.00.
2. Respondents, Shearson and Guadagno, are hereby directed to reimburse to the Claimants the sum of \$1,000.00 (ONE THOUSAND DOLLARS AND 00/XX) that the Claimants already deposited with the NASD
3. Respondents, Shearson and Guadagno, are further directed to pay the balance of \$2,950.00 (TWO THOUSAND NINE HUNDRED FIFTY DOLLARS AND 00/XX) to the NASD, Inc.

Concurring Arbitrator's Signature

Name


Cynthia L. Boyce, Esq.

Public Arbitrator

Date of Decision November 4, 1992

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

Non-refundable filing fee of \$ 200.00
Hearing Session Fees: \$3,750.00 (5 Sessions x \$750.00)

1. Respondents, Shearson Lehman Hutton, Inc. and Pat Guadagno, are hereby liable for all forum fees in the amount of \$3,950.00.
2. Respondents, Shearson and Guadagno, are hereby directed to reimburse to the Claimants the sum of \$1,000.00 (ONE THOUSAND DOLLARS AND 00/100) that the Claimants already deposited with the NASD
3. Respondents, Shearson and Guadagno, are further directed to pay the balance of \$2,950.00 (TWO THOUSAND NINE HUNDRED FIFTY DOLLARS AND 00/100) to the NASD, Inc.

Concurring Arbitrator's Signature
Name


David Finnegan, Esq.

Public Chairperson

Date of Decision November 4, 1992

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

Non-refundable filing fee of \$ 200.00
Hearing Session Fees: \$3,750.00 (5 Sessions x \$750.00)

1. Respondents, Shearson Lehman Hutton, Inc. and Pat Guadagno, are hereby liable for all forum fees in the amount of \$3,950.00.
2. Respondents, Shearson and Guadagno, are hereby directed to reimburse to the Claimants the sum of \$1,000.00 (ONE THOUSAND DOLLARS AND 00/100) that the Claimants already deposited with the NASD.
3. Respondents, Shearson and Guadagno, are further directed to pay the balance of \$2,950.00 (TWO THOUSAND NINE HUNDRED FIFTY DOLLARS AND 00/100) to the NASD, Inc.

Concurring Arbitrator's Signature

Name


Robert J. Van Ingen, Esq.

Industry Arbitrator

Date of Decision November 4, 1992

STATE OF New York ss.:

COUNTY OF New York

On this 9th day of OCTOBER 1972, before me personally appeared David Finnegan, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



WILLIAM S. ASHBIT
Notary Public, State of New York
No. 31-46
Qualified in New York County
Certificate Filed in New York County
Commission Expires November 30, 1973

STATE OF New York ss.:

COUNTY OF New York

On this 30th day of October 1992, before me personally appeared Karen J. Van Ingen, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.

Maria Campese

MARIA A. CAMPESE
Notary Public, State of New York
No. 62-4965360
Qualified in Suffolk County 94
Commission Expires April 16, 1994

STATE OF NEW YORK ss.:

COUNTY OF NEW YORK

On this 14th day of October 1993, before me personally appeared Cynthia L. Boyce, Esq. to me known and known before me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.

Maria A. Campese

MARIA A. CAMPESE
Notary Public, State of New York
No. 62-4965360
Qualified in Suffolk County
Commission Expires April 18, 1994