

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
One East Broward Boulevard
Suite 1000
Ft. Lauderdale, Florida 33301
(305) 522-7391

In the Matter of the Arbitration Between

Name of Claimant(s)

Jorge Rivera and Carmen Belen Colon Diaz

#91-01226

Name of Respondents

Shearson Lehman Brothers, Inc f/k/a et al
Glenn Dropkin
Robert F. Jerome
Ruben Fournier

REPRESENTATION

For Claimants, Jorge Rivera and Carmen Belen Colon Diaz: Henry Sanchez, Jr.,
of Page & Back.

For Respondents, Shearson Lehman Brothers, Inc. ("Shearson"), Glenn Dropkin
("Dropkin") and Robert F. Jerome ("Jerome"): Richard L. Martens, Esq. and
Debra A. Jenks, Esq. of Boose Casey Clikin Lubitz, Martens McBane &
O'Connell.

Respondent, Ruben Fournier: pro se-(See Other Issues).

CASE INFORMATION

Statement of Claim filed: 4/17/91.

Claimant's Submission Agreement signed on: 1/31/91.

Respondents, Shearson, Dropkin and Jerome filed a Joint Statement of Answer
and Cross Claim against Fournier: 6/27/91.

Respondent, Shearson's Submission Agreement and Corporate Acknowledgment
signed on: 7/25/91 by Mary E. Reisert on behalf of the firm.

Respondent, Dropkin's Submission Agreement signed on: 8/29/91.

Respondent, Jerome's Submission Agreement signed on: 6/28/91.

Respondent, Fournier, did not sign a Submission Agreement or file a Statement
of Answer as required by Section 8 and Section 12 of the Code of Arbitration
Procedure.

MEMO-#91-01226

HEARING INFORMATION

Hearing Date/Sessions: 7/14/92-Two (2) Sessions.

Hearing Location: Tampa, Florida.

CASE SUMMARY

Claimants, alleged that their Claims arose under Section 10(b) and Rule 10b-5 thereunder and Section 20 of the Securities Exchange Act of 1934 (the "1934 Act"); 18 U.S.C. Section 1961 et seq., the Federal Racketeer Influenced and Corrupt Organizations Act ("RICO"); Sections 517.211, 517.301 and 517.312 of the Florida Securities Act (the "Florida Act"), and constitute fraud and a breach of fiduciary duty under the Common Law of the State of Florida.

Claimants stated that their account, which was opened in June of 1987 at Respondent, Shearson's (which was at that time known as E.F. Hutton), Puerto Rico Office, by Respondent, Fournier, (who later became Claimant's son-in-law by virtue of his marriage to their daughter, in 1988), was mishandled through a series of unauthorized and unsuitable trades, by Fournier, despite Claimants' stated investment objective of absolutely no risk to their principal and despite Claimants' specific instructions to Fournier to purchase only GWA's for Claimants' accounts. Claimants alleged that although they specifically told Fournier that they did not want any margin trading to occur in their account and that, to their recollection, they never signed a customer's agreement, option or margin agreement with Shearson, Fournier engaged in options trading on margin. Claimants alleged that Fournier's purchase in June, 1988 of Salt River AZ Agricultural Import and Power Revenue Bond and Houston, Texas Water and System Revenue Bond were unauthorized by Claimants and were later sold at a loss. Claimants alleged that upon questioning Fournier about the margin trading in their account, Fournier expressed to them that there must be some mix-up in the office in New York and that he would check into it and take care of it. Claimants alleged that based on Fournier's reassurances, it was Claimants' understanding that the margin account was a clerical error which would be corrected but it was not and resulted in substantial losses to Claimants.

Claimants alleged that Fournier took advantage of his relationship with them for his own benefit and to Claimants' detriment. Claimants contended that Fournier's fraudulent actions, breached the fiduciary duty that he had to Claimants and that Respondents, Jerome and Dropkin knew or should have known of Fournier's activities and failed to take corrective measures and that Jerome, Dropkin and Shearson's lack of supervision and failure to take action make them jointly and severally liable with Fournier to Claimants.

Respondents, Shearson, Jerome and Dropkin denied each and every allegation of impropriety contained in the Statement of Claim and denied that they are liable to Claimants for any monetary damages. Respondents, Shearson, Jerome and Dropkin maintained that they followed their respective guidelines in

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administering and monitoring Claimants' accounts and further asserted a Cross-Claim against Respondent, Fournier, stating that he willfully interfered in the process by lying to Claimants as to the nature of the trading in their account and that Fournier lied to Shearson in his representations that all trades in the subject accounts were authorized by Claimants. Respondents, Shearson, Jerome and Dropkin further maintained that the liability for any losses to Claimants must ultimately be borne by Fournier, based on Shearson's entitlement to contributions and indemnity from Fournier.

Respondent, Fournier did not Respond to the Statement of Claim nor to the Cross-Claim against him.

RELIEF REQUESTED

Claimants requested an award of the following:

- A. Damages, including but not limited to margin interest, commissions and losses, against Respondents, jointly and severally, in favor of Claimants, in an amount in excess of \$150,000.00, plus interest at the rate of 12% per annum commencing June 1, 1988;
- B. Punitive damages against Respondents, jointly and severally, in an amount of at least \$500,000.00;
- C. That Respondents are jointly and severally liable for Claimant's attorneys' fees and costs for bringing this arbitration;
- D. That Respondents violated RICO, thus entitling Claimants to receive an award, against Respondents, jointly and severally, of three times the damages found by this arbitration panel, including costs of bringing this Claim and attorneys' fees.

Respondents, Shearson, Jerome and Dropkin requested an Award on their contribution and indemnity Claims against Fournier. At the Hearing Shearson filed a Motion for Default Award on its Cross-Claim against Fournier in the amount of \$115,000.00 plus NASD Fee of \$1,500.00 for a total of \$116,500.00.

OTHER ISSUES CONSIDERED & DECIDED

On July 13, 1992 the NASD was advised that Claimants had settled with Shearson, Jerome and Dropkin but not with Fournier. Shearson did not withdraw its Cross-Claim against Fournier and therefore, the hearing proceeded on Shearson's Cross-Claim against Fournier.

Respondent, Fournier did not appear nor did he submit an executed Submission Agreement and Statement of Answer as required by Sections 8 and 12 of the Code. Based upon the evidence submitted at the hearing and in Arbitrator's Exhibit No. 1 regarding hearing notices to the parties, this arbitration panel found that proper notice was given to Fournier and that jurisdiction exists pursuant to Sections 8 and 12(a) of the Code. Pursuant to Section 29 of the Code, this panel proceeded with the hearing in his absence.

AWARD-#91-01226

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. Respondent, Ruben V. Fournier, is found liable and shall pay to Respondent/Cross-Claimant, Shearson Lehman Brothers, Inc., the sum of Fifty Eight Thousand Two Hundred Fifty Dollars and no Cents (\$58,250.00);
2. Each Party shall bear its own costs including attorneys fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Arbitration Panel has assessed forum fees in the amount of \$2,000.00 (Two (2) Sessions X \$1,000.00).

Respondent, Shearson, is hereby assessed forum fees in the amount of \$2,000.00 for which the NASD shall retain the \$1,000.00 previously deposited by Shearson in partial satisfaction thereof leaving a balance of \$1,000.00 due to the NASD, by Shearson;

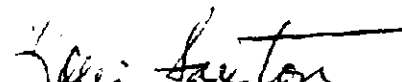
Pursuant to Section 43(f) the NASD shall retain the \$1,000.00 hearing session deposit previously deposited by Claimants;


The NASD, Inc. shall retain the \$250.00 and the \$500.00 non-refundable Filing Fees previously deposited by Claimants and Respondents, Shearson, Jerome and Dropkin.


Fees are payable to the NASD, Inc.

ARBITRATION PANEL

Concurring Arbitrators' Signatures


Louis Saxton
(Public/Chairman)


John F. Howes
(Public Panelist)


W. David Powell
(Industry/Panelist)

Date of Decision: August 13, 1992