

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
Barbara & Randolph Lucas :
Claimants :
vs. :
Shearson Lehman Brothers, Inc. :
Respondent :

CASE #91-01868
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on June 14, 1991, Claimants, Barbara & Randolph Lucas, who appeared Pro Se, alleged that on September 11, 1990, Respondent Shearson Lehman Brothers, Inc. recommended the purchase of 100 shares of Polly Peck International Stock, trading on the London Stock Exchange, by advising them that the stock had significant growth and profit potential. Claimants further alleged that Respondent informed them that the Polly Peck stock would pay a dividend and had potential value interest with the possibility that one of it's subsidiaries would spin-off and float on an American Exchange. Claimants contended that Respondent assured them that Polly Peck had only a "moderate risk" and that it had the possibility of paying \$15.00 a share. Claimants further contended that Respondent negligently represented the Polly Peck stock as a moderate risk, rather than the high speculative stock it was, thus, misleading Claimants into the purchase, which resulted in a loss to them.

Respondent, Shearson Lehman Brothers, Inc. by and through their in-house counsel Kathryn S. Reimann, maintained that they recommended the purchase of Polly Peck International stock to Claimants, Barbara & Randolph Lucas, upon the reliance of their firm's research, which showed Polly Peck as an undervalued company, with significant growth and profit potential. Respondent further maintained that their recommendation of Polly Peck stock was based on Goldman Sachs research report; Polly Peck's Annual Reports, its historic performance plus the potential of a spin-off and its business prospects in general. Respondent contended that Polly Peck had an established track record as the top performer on the London Stock Exchange but sudden and unforeseeable events caused the stock to behave in a manner that Respondent could not have

predicted through even the most careful economic analysis. Respondent further contended that these unforeseen events caused a decline in the value of the stock at which time the London Stock Exchange suspended trading and Respondent awaits further information so they can assess the situation in order to advise their clients. Respondent asserted that at the time the stock was recommended to Claimants it was expected to pay a dividend, historically had done so, and had potential value interest. Respondent further asserted that the stock was expected to outperform the market with moderate risk, which Claimants were clearly willing to accept. Respondent argued that there were no misrepresentations made in connection to the Claimant's purchase of the stock and the opinion of Respondent had more than reasonable basis, therefore, Respondent should not be held liable for an opinion.

RELIEF REQUESTED

Claimants, Barbara & Randolph Lucas requested \$562.10 in actual damages plus interest at 5% per annum from September 11, 1990 to the date of settlement of the claim.

Respondent, Shearson Lehman Brothers, Inc. requested the claim be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Edna Selan Epstein, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 7, 1991 and not by the Respondent, Shearson Lehman Brothers, Inc. as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.


And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Shearson Lehman Brothers, Inc. is liable and shall pay to the Claimants, Barbara & Randolph Lucas the sum of \$562.10 in damages.
2. Respondent, Shearson Lehman Brothers, Inc. is liable and shall pay to the Claimants, Barbara & Randolph Lucas simple interest at 5% per annum from September 11, 1990 to date of payment of the award.

3. The parties shall bear their respective costs.
4. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants, Barbara & Randolph Lucas shall be retained by the NASD, Inc. Respondent, Shearson Lehman Brothers, Inc. is liable and shall pay to the Claimants the sum of \$30.00 as reimbursement.

AFFIRMATION

I, EDNA SELAN EPSTEIN, ESQ., do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


Signature of Arbitrator

DATE OF DECISION: April 27, 1992