

N.A.S.D. AWARD

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

Shearson Lehman Brothers, Inc.

vs.

Case #
91-02001Name of RespondentGeorge John Pappas

REPRESENTATION

For Claimant: Charles R. Mills, Esq. of Lord Day & Lord, Barrett Smith.

For Respondent: Gary P. Arsenault, Esq. of Mercer, Grey & Arsenault, P.C.

CASE INFORMATION

Statement of Claim filed: July 11, 1991.

Claimant's Submission Agreement signed on: June 25, 1991.

Statement of Answer filed by Respondents on: September 10, 1991.

Respondent's Submission Agreement signed on: August 30, 1991.

HEARING INFORMATION

Hearing Date/Hearing Sessions: January 23, 1992 - Two sessions
February 10, 1992 - One session.

Hearing Location: Norfolk, Virginia.

CASE SUMMARY

Claimant, Shearson Lehman Brothers, Inc., alleges that Respondent, George John Pappas, called one of Claimant's financial consultant, Edward Goldman, and advised him that he wished to purchase 3,200 United States Treasury zero coupon bonds which upon maturity would be valued at \$3.2 million. Claimant further alleges that such purchase was done on margin at a cost of \$644,896.00. Claimant also alleges that Respondent indicated that he would wire \$100,000.00 to cover part of the purchase price and that the balance would be paid two to three days thereafter. Claimant alleges that Respondent

did not wire the funds and again promised that payment would be made when he closed on the sale of a hotel in which he was a stockholder and which was being sold for \$6 million. Claimant states that despite Respondent's numerous promises to pay for the bonds, he did not and Claimant was forced to liquidate Respondent's account which created a debit balance in the amount of \$55,330.50. Claimant also states that Respondent tendered a check for \$10,000.00 which was ultimately refused by his bank for non-sufficient funds.

Claimant argues that Respondent breached his contract with Shearson, that the doctrine of promissory estoppel is applicable, that Respondent violated Section 10(b) of the Securities Exchange Act and Rule 10b-5 promulgated thereunder, that Respondent violated Virginia Code Sections 13.1-502, 8.01-27.1 and 8.01-27.2 and committed common law fraud.

Respondent denies liability, denies that he authorized the purchase the bonds and denies the allegation that he stated that he would wire \$100,000.00 to cover the purchase. Respondent contends that he told Mr. Goldman that a purchase of the bonds would be subject to his ability to obtain a loan. Respondent further contends that at the time Claimant purchased the bonds, he did not have an account with Claimant and the only purpose for opening the account was to receive the funds he was trying to borrow. Respondent also alleges that some of the information contained in the client agreement form is inaccurate and that Claimant did not provide him with any disclosures about the margin account.

RELIEF REQUESTED

Claimant requests: (A) an award of \$57,902.03 plus interest, costs, including reasonable attorney's fee, consistent with such damages specifically sought under Counts I - V of the Statement of Claim; (B) a civil penalty of \$30,000.00 plus legal interest from January 10, 1991 until the date of payment, any bad check return fee and any processing charges as sought under Count IV; and (C) any and all additional relief as the arbitrators deem appropriate and permitted by law.

Respondent requests that claims be dismissed, that he be awarded costs and reasonable attorney's fees and any other relief that the arbitrators deem appropriate.

OTHER ISSUES CONSIDERED AND 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 received conformed copies of the Award while the originals remain on file with the NASD.

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, George John Pappas, is hereby liable to the Claimant and shall pay Claimant Fifty Seven Thousand Nine Hundred and Two Dollars and Zero Cent (\$57,902.00);
2. Respondent, George John Pappas, is further liable to the Claimant and shall pay Claimant One Hundred Dollars and Zero Cent (\$100.00) pursuant to Virginia Code Sections 88.01, 27.1 and 27.2;
3. The claim for attorney's fees is denied.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

1. Claimant is assessed a \$500.00 non-refundable filing fee;
2. Forum fees in the amount of \$1,800.00 for three hearing sessions at \$600.00 per session ($\$600.00 \times 3 = \$1,800.00$) are assessed and shall be borne equally by the parties;
3. Therefore, Claimant is further assessed \$900.00 in forum fees and shall receive a credit of \$600.00 which was previously paid;
4. Respondent is assessed \$900.00 in forum fees.

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

Concurring Arbitrator's Signature

Name


Arnold B. Crews, Esq.

Public/Chairperson

Executed on

~~Date of Decision:~~

3/09/92

Date of Decision: March 16, 1992

AWARD

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Concurring Arbitrator's Signature
Name

Public

Patrick J. Halter
Patrick J. Halter

Executed on
~~Date of Decision:~~ 10 Mar 92

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Concurring Arbitrator's Signature
Name

Industry


Frederick W. Kuzinger, Sr.

Executed on
~~Date of Decision:~~ 3/16/92

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