



ARBITRATION DEPARTMENT NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
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N.A.S.D. AWARD

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RESOLUTION OF
DISPUTES.

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Adolfo Olloqui

91-02167

Name of Respondents

**Shearson Lehman Brothers, Inc.
Alberto Alvarez
Alejandro Lacayo**

REPRESENTATION

For Claimant, Adolfo Olloqui ("Olloqui"): Jeffrey A. Rynor, Esq. of Mitrani, Rynor & Gallegos, P.A., Miami, FL.

For Respondents Shearson Lehman Brothers, Inc. ("Shearson"), Alberto Alvarez ("Alvarez"), Alejandro Lacayo ("Lacayo"): Donald L. Kreindler, Esq. of Kreindler & Relkinothers, New York, NY.

CASE INFORMATION

Statement of Claim filed: July 16, 1991.

Claimant's Submission Agreement signed: June 26, 1991.

Joint Statement of Answer filed by Respondents: October 2, 1991.

Respondent Shearson's Submission Agreement signed: February 13, 1994 by Donald L. Kreindler as the attorney of record for Shearson; Respondent Alvarez's Submission Agreement signed: February 1, 1994; and, Respondent Lacayo's Submission Agreement signed: February 1, 1994.

HEARING INFORMATION

On April 26, 1993, a Pre-Hearing Conference lasting 1 session was conducted, via telephone conference call, with an arbitrator.

On February 1, 2, 3 and 4; March 1, 2, 15, 16 and 30, 1994 in Fort Lauderdale, Florida, a total of 19 hearing sessions were conducted.

CASE SUMMARY

Claimant, alleged that on July 21 and 22, 1988 he purchased \$2,000,083 in silver options in the name of a nominee, Banque Contrade, a Swiss bank and foreign broker, from Shearson through its employee, Lacayo; that in enacting the trade, Lacayo designed it "deep out of the money", thereby failing to meet a prudent man standard; that Respondent Lacayo made material misrepresentations to induce Claimant to purchase and hold said options, failed to disclose material risks of the investment or investigate the suitability of the Claimant; that Respondents, Shearson, Lacayo and Alvarez made material misrepresentations as to the performance of the options; that Respondents Shearson and Lacayo failed to properly supervise the account; that all Respondents committed statutory fraud; violated Section 10(b) of the Securities Exchange Act of 1934, Rule 10(b)-5 thereunder, and Florida Statute Section 517.301; engaged in conduct constituting the following breaches of common law, fiduciary duty, fraud, and negligent misrepresentation.

Respondents denied all allegations of wrongdoing contained in the statement of claim and set forth the affirmative defenses of; lack of standing; failure to state a cause of action; statute of limitations; waiver; laches; ratification; and estoppel.

RELIEF REQUESTED

Claimant requested rescission or compensatory damages in the amount of \$2,000,000.00, punitive damages, costs and attorney's fees.

Respondents requested dismissal of all claims and an award of attorneys fees and costs.

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 original(s) remain on file with the NASD.

AWARD

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

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

OTHER COSTS

Other than Forum Fees discussed below, the parties shall each bear their own costs of this proceeding.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$19,300.00 (1 prehearing conference x \$300.00 plus 19 sessions x \$1,000.00)

1. Claimant is hereby assessed \$9,650.00 for which the NASD shall retain the \$9,500.00 previously deposited in partial satisfaction thereof, leaving a balance due the National Association of Securities Dealers, Inc. of \$150.00.

2. Respondent is hereby assessed \$9,650.00, for which the NASD shall retain the \$8,500.00 previously deposited in partial satisfaction thereof leaving a balance due the National Association of Securities Dealers, Inc. of \$1,150.00.

3. The NASD shall retain the non refundable filing fee of \$250.00 previously paid by the Claimant.

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

Concurring Arbitrators' Signatures

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Mark C. Perry, Esq., Chair

Public

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V. Michael Pabalis

Public

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Lionel P. Greenbaum

Industry

Date of Decision: 4/27/84