

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Steve E. Gerlach
Kirsty E. Gerlach

vs.

91-02351

Name of Respondent(s)

Shearson Lehman Brothers, Inc.

REPRESENTATION

For Claimants/Counterrespondents: Steve E. Gerlach (Pro per)

For Respondent/Counterclaimant: Kathryn L. Krebs, Esq., Kassal, Young & Logan

CASE INFORMATION

Statement of Claim filed: July 31, 1991

Claimants'/Counterrespondents' Submission Agreements signed as follows:

Steve E. Gerlach - July 11, 1991
Kirsty E. Gerlach - October 16, 1991

Statement of Answer and Counterclaim filed by Respondent on: January 8, 1992

Respondent's/Counterclaimant's Submission Agreements signed on: January 7, 1992

HEARING INFORMATION

Prehearing Conference Date/Sessions: None

Hearing Date/Sessions: May 8, 1992 (two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants/Counterrespondents alleged that Respondent/Counterclaimant wrongfully paid check number 127 of their Financial Management Account ("FMA"), account number 553-14837-16, after acknowledging two separate stop payment orders by Steve Gerlach.

Respondent/Counterclaimant denied any liability to Claimants/Counterrespondents and asserted that check number 127 was paid as a result of Kirsty Gerlach's telephone call to Shearson's FMA department in which she directed that the stop order previously placed by Steve Gerlach be removed. Respondent/Counterclaimant further asserted that it acted in accordance with Claimants' Customer Agreement. Respondent/Counterclaimant also asserted a counterclaim for a debit balance in Claimants'/Counterrespondents' FMA account.

RELIEF REQUESTED

Claimants/Counterrespondents requested: \$15,000.

Respondent/Counterclaimant requested:

1. Dismissal of Claimants'/Counterrespondents' claims;
2. An Award of \$4,209.15 against Claimants/Counterrespondents, jointly and severally;
3. Interest;
4. Costs;
5. Expenses; and
6. Legal fees.

OTHER ISSUES CONSIDERED & DECIDED

On January 28, 1992, Claimants/Counterrespondents filed a Motion To Bar Shearson Lehman Brothers, Inc.'s Answer. The Chairperson ruled that he would admit the Answer and Counterclaim filed by Shearson Lehman Brothers, Inc. into the case pleadings.

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.

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. Each and every claim of Claimants/Counterrespondents is dismissed.

2. Claimants/Counterrespondents are jointly and severally liable for and shall pay to Respondent/Counterclaimant the sum of \$4,209.15.

3. Claimants/Counterrespondents are jointly and severally liable for and shall pay to Respondent/Counterclaimant the sum of \$300.00 as reimbursement for Respondent's/Counterclaimant's hearing session deposit.

4. Respondent's/Counterclaimant's claims for interest, expenses and legal fees are dismissed.

5. The parties shall each bear their respective costs including attorneys' fees.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$100 filing fee previously deposited by the Claimants/Counterrespondents. The Director of Arbitration waived the hearing session deposit pursuant to Claimants'/Counterrespondents' request.

ARBITRATION PANEL

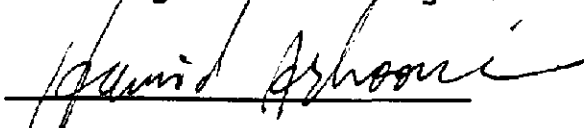
Name

John H. Ashoorian

Public/Industry

Public Chairperson

Concurring Arbitrator's Signature



DATE SERVED: 07/02/92

Date of Decision: May 8, 1992