

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Jerry C. Ayoub

and

91-03523

Name of Respondents

Shearson Lehman Brothers, Inc.  
Harry Winters

REPRESENTATION OF PARTIES

Claimant was represented by Mark Grissom, Esq., El Paso, Texas.

Respondents were represented by Joseph L. Hood, Esq. of Scott, Hulse, Marshall, Feuille, Finger & Thurmond, P.C., El Paso, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about November 7, 1991.  
Amended Statement of Claim filed on or about June 1, 1992.

Claimant's Submission Agreement signed on October 28, 1991.

Statement of Answer filed by Respondents Shearson Lehman Brothers, Inc. and Harry Winters on or about January 6, 1992.

Respondent Shearson Lehman Brothers, Inc.'s Submission Agreement signed on November 27, 1991 by Neil A. Sussman.

Respondent Harry Winters' Submission Agreement signed on March 5, 1992.

HEARING INFORMATION

The hearing was held on Wednesday, June 10, 1992 in Dallas, Texas for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that Harry Winters, an employee of Shearson Lehman Brothers, Inc. made material misrepresentations to induce him to purchase UAL stock options and continued to make material misrepresentations to induce him to maintain his positions in UAL. Claimant also alleged that the actions of Respondents constituted common law fraud, and breach of fiduciary duty.

Respondents Shearson Lehman Brothers, Inc. and Harry Winters denied the allegations set forth in the Statement of Claim. Respondents specifically stated that the Claimant was an experienced investor who was fully aware of the risks and rewards of investing in stock options. Respondents further stated that the transactions were fully authorized by the Claimant.

#### RELIEF REQUESTED

Claimant requested an award in the amount of \$60,000.00, unspecified punitive damages, costs, expenses, interest, and attorney's fees.

Respondents requested that the claims be dismissed and that forum fees be assessed against the Claimant.

#### OTHER ISSUES CONSIDERED & DECIDED

The panel granted Claimant leave to file his First Amended and Restated Statement of Claim.

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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Shearson Lehman Brothers, Inc. shall be and hereby is liable for and shall pay to the Claimant Jerry C. Ayoub the sum of \$15,937.50 (Fifteen Thousand Nine Hundred Thirty Seven Dollars and Fifty Cents) and Respondent Harry Winters shall be and hereby is liable for and shall pay to the Claimant Jerry C. Ayoub the sum of \$5,312.50 (Five Thousand Three Hundred Twelve Dollars and Fifty Cents) for a total award of \$21,250.00 (Twenty One Thousand Two Hundred Fifty Dollars).
2. No punitive damages are awarded herein.
3. No interest is awarded herein.
4. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

#### FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150.00 and shall refund the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimant. Respondents Shearson Lehman Brothers, Inc. shall be and hereby is liable for and shall pay to the NASD the sum of \$1,000.00 as forum fees.

Forum fees are calculated at the rate of \$500.00 per hearing session.

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

Dated:

June 10, 1992

June 10, 1992

June 10, 1992

Marc A. Myrin  
Marc A. Myrin, Esq.  
Presiding Chair  
Public Arbitrator

K. Steve Kimball  
K. Steve Kimball  
Public Arbitrator

Jack P. Brown, Jr.  
Jack P. Brown, Jr.  
Industry Arbitrator