

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Diane L. Errickson

Claimant

vs.

Shearson Lehman Brothers, Inc.

Respondent

CASE #92-00243
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 22, 1992, Claimant Diane Errickson, who appeared Pro Se, alleged that on September 24, 1990, her husband, John W. Errickson contacted Respondent Shearson Lehman Brothers, Inc. to instruct them to sell 300 shares of Mesa Limited Partnership at \$6.00 per share whereby Respondent was instructed to make this identical sale in three separate accounts. Claimant further alleged that later that same day Respondent gave her husband an oral confirmation of the sales, at which time, her husband immediately ordered the purchase of 100 shares of Handex Environmental Recovery, Inc. at \$18.00 per share for these same three accounts. Claimant contended that on November 3, 1990 when she received the October account statements from Respondent, it was discovered that Respondent executed the sale and purchase orders in her husband's two accounts but had failed to do so in her account; the third account. Claimant further contended that on November 5, 1990, the first business day after discovering the problem, her husband contacted Respondent to inform them of their error whereby Respondent advised her husband that the matter would be investigated. Claimant asserted that when she received no response to the problem from Respondent, her husband repeatedly tried to contact Respondent, both in writing and verbally, to no avail and finally on April 18, 1991 Respondent notified her husband in writing that there was no Letter of Authorization (L.O.A.) on file for Claimant, therefore, the trades in question could not be implemented on an as is basis. Claimant further asserted that since the inception of her account in June 1983, her husband has directed the transactions in her account and not until the receipt of Respondent's April 18, 1991, was she informed of a L.O.A. Claimant argued that Respondent failed to follow her husband's explicit instructions or to inform her that after seven years she

needed a L.O.A., therefore, Respondent should have to transfer 125 shares of Handex Environmental Recovery, Inc. to her IRA account, which includes the original 100 shares of Handex plus the 25% stock dividend received in March 1991.

Respondent Shearson Lehman Brothers, Inc. failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant Diane L. Errickson requested that Respondent be directed to transfer 125 shares of Handex Environmental Recovery, Inc. to her IRA account and pay any additional damages plus costs.

Respondent Shearson Lehman Brothers, Inc. failed to file an Answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Pamela H. Roderick, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 16, 1991 and not by the Respondent as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent Shearson Lehman Brothers, Inc. was served a copy the Statement of Claim by regular mail on February 27, 1992 and given an opportunity to respond, which they failed to do. Respondent Shearson Lehman Brothers, Inc. was notified on June 16, 1992, via certified mail, that their Statement of Answer was overdue. Respondent Shearson Lehman Brothers, Inc. was notified on June 29, 1992, via certified mail, of the selected arbitrator pursuant to Section 21 of the NASD Code of Arbitration Procedure. The signed certified mail receipt dated July 1, 1992 was returned to the NASD, evidencing their receipt of the June 29, 1992 correspondence. Respondent Shearson Lehman Brothers, Inc. failed to file an Answer to the Statement of Claim.

2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent Shearson Lehman Brothers, Inc. was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

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 deliver to the Claimant Diane L. Errickson 125 shares of Handex Environmental Recovery, Inc. in return for Claimant's 300 shares of Mesa Limited Partnership.
2. The parties shall bear their respective costs.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Diane L. Errickson shall be retained by the NASD, Inc. Respondent Shearson Lehman Brothers, Inc. is liable and shall pay to the Claimant the sum of \$125.00 as reimbursement.

AFFIRMATION

I, PAMELA H. RODERICK, 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: September 4, 1992