

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Victor J. Stegall

92-00362

Name of Respondent

Shearson Lehman Brothers, Inc.

REPRESENTATION

For Claimant Victor J. Stegall ("Claimant"): Benjamin F. Yale, Esq., of Yale & Hoy.

For Respondent Shearson Lehman Brothers, Inc. ("Shearson"): Victor A. Machinski, Esq., of Shearson.

CASE INFORMATION

Statement of Claim filed: January 31, 1992.
Response to Shearson's Counterclaim filed: June 22, 1992.
Claimant's Submission Agreement signed on: February 18, 1992.

Statement of Answer and Counterclaim filed by Respondent on: May 15, 1992.
Respondent's Submission Agreement signed on: May 14, 1992.

HEARING INFORMATION

Pre-Hearing Conference: December 3, 1992/1 arbitrator/1 session

Hearing Dates/Sessions: February 10, 1993/3 arbitrators/2 sessions
February 11, 1993/3 arbitrators/2 sessions
April 7, 1993/3 arbitrators/2 sessions
April 8, 1993/3 arbitrators/2 sessions
July 7, 1993/3 arbitrators/2 sessions
July 8, 1993/3 arbitrators/3 sessions

Hearing Location: Dayton, OH.

CASE SUMMARY

Claimant alleged that his account representative Vernon Schisler ("Schisler"), an employee and agent of Shearson, improperly handled his account by churning the investments and pursuing unsuitable investments. Claimant also alleged that prior to his contact with Schisler, Claimant had not participated in any of the strategies used by Schisler in kind or degree including options.

Claimant alleged Schisler executed unauthorized transactions; executed numerous security transactions and pursued various investment strategies on behalf of Claimant without obtaining Claimant's approval. Claimant further alleged Schisler violated various NASD and NYSE rules concerning discretionary trading without Claimant's approval. Also, Claimant alleged Schisler made these trades to enhance his commissions to the detriment of Claimant.

Further, Claimant alleged that Shearson's acts violated Section 10-b; violated

fiduciary duties owed to Claimant; and violated the common law obligation of duty.

Finally, Claimant alleged this action was originally brought in the Court of Common Pleas for Franklin County, OH; however, in August 1991, the parties stipulated to the dismissal of that case without prejudice so the matter could be submitted to arbitration. Claimant alleged that as to the issues of timeliness, the filing of this claim reverted back to the date of filing of the Complaint in the Franklin County case.

Claimant's claim that Respondent's employee executed unauthorized trades was withdrawn at the hearing.

Respondent alleged that in August 1989 it contacted Claimant requesting payment of a debit balance in his account which arose as a result of market action during the October 1987 stock market crash. Shearson alleged that as its efforts to resolve the matter informally were spurned; it then filed a complaint against Claimant in the Franklin County Court in Columbus, OH in November 1989. Shearson alleged Claimant filed an answer and counterclaim in October 1990; however, the Franklin County Court directed the case to arbitration and by agreement the state court arbitration was canceled and Claimant commenced this arbitration before the NASD.

Respondent maintained Claimant has an extensive investment background. Respondent further alleged that Claimant signed a Client Agreement pursuant to which he agreed to pay his liabilities together with statutory interest; signed an options agreement in which he confirmed certain personal financial information; and indicated investment objectives of income, growth and trading. Shearson contended Claimant initially invested primarily in bonds and then accepted Schisler's recommendations regarding options strategies. Respondent maintained Claimant suffered substantial losses as a result of the 1987 stock market crash; however, the day of the crash Schisler advised Claimant he would have to meet a substantial margin call to save his positions. Shearson alleged Claimant did not place any blame on Schisler at that time for market events.

Shearson alleged Claimant received monthly statements and confirmations evidencing his transactions, all of which were authorized, and that he regularly communicated with Schisler and made no complaints about his accounts.

In its Counterclaim, Shearson alleged that as of November 1987, following liquidation of the securities in Claimant's account, there existed a margin debit balance.

Respondent's Counterclaim regarding a debit balance due and owing from Claimant was withdrawn at the hearing.

Claimant responded to Respondent's Counterclaim by maintaining the counterclaims are time barred; if there was a debit balance, it was there due to Shearson's breach of contract and therefore, is not due and owing by Claimant; and that Claimant was not obligated to Respondent for any amount.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$842,486.00, plus interest in excess of \$358,056.05; attorneys' fees; expert fees; costs; and punitive damages. Claimant asserted he was not obligated to Respondent for any amount alleged in the Counterclaim.

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Respondent requested: the Statement of Claim be dismissed. On its Counterclaim, Respondent requested it be awarded the sum of \$19,546.52, plus interest; fees (including 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 originals 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. Claimant Victor J. Stegall's claims against Respondent Shearson Lehman Brothers, Inc. are denied;
2. Claimant Victor J. Stegall's claim against Respondent Shearson Lehman Brothers, Inc. for punitive damages is denied;
3. Respondent Shearson Lehman Brothers Inc.'s Counterclaims against Claimant Victor J. Stegall are denied;
4. All other claims are denied;
5. Each party shall bear its own expenses, including attorneys' fees.

FORUM FEES

Pursuant to Section 410 of the Code of Arbitration Procedure, the NASD shall retain the \$350.00 and \$300.00 non-refundable filing fees deposited by Claimant and Respondent, respectively, and the following Forum Fees are assessed.

1 pre-hearing conference session X \$300.00 = net \$300.00 due.

11 sessions X \$1,000.00 = \$11,000.00 minus Claimant's hearing session deposit of \$1,000.00 and Respondent's hearing session deposit of \$600.00 = net \$11,400.00 due.

Forum Fees Assessed Against:

1. Claimant Victor J. Stegall is hereby liable and shall pay to the NASD the sum of \$11,150.00; however, the NASD shall retain Claimant's hearing session deposit of \$1,000.00; therefore, the amount due and owing to the NASD equals \$10,150.00;
2. Respondent Shearson Lehman Brothers, Inc. is hereby liable and shall pay to the NASD the sum of \$2,150.00; however, the NASD shall retain Respondent's hearing session deposit of \$600.00; therefore, the amount due and owing to the NASD equals \$1,550.00.

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

Arbitrator Signature



E. Allen Elliott/Public Arbitrator

Date of Decision: August 11, 1993

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Respondent requested: the Statement of Claim be dismissed. On its Counterclaim, Respondent requested it be awarded the sum of \$19,566.52, plus interest; fees (including attorneys' fees) and costs. -

OTHER ISSUES CONSIDERED & DECIDED

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4. All other claims are denied;
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FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$250.00 and \$500.00 non-refundable filing fees deposited by Claimant and Respondent, respectively, and the following Forum Fees are assessed.

1 pre-hearing conference session X \$300.00 = net \$300.00 due.

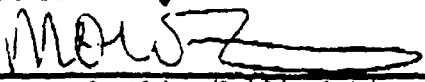
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Arbitrator Signature


Maurice O. White/Public Arbitrator

Date of Decision: August 11, 1993

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Respondent requested: the Statement of Claim be dismissed. On its Counterclaim, Respondent requested it be awarded the sum of \$19,866.52, plus interest; fees (including attorneys' fees) and costs.

OTHER ISSUES CONSIDERED & DECIDED

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

Arbitrator Signature


Edward T. Kennedy/Industry Arbitrator

Date of Decision: August 11, 1993