

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

R. Steve Crowder
Cobra Oil Company
Little River Energy Company

92-00377

Name of Respondent

Shearson Lehman Brothers, Inc.

REPRESENTATION

For Claimants at the hearing: Gretchen Z. Kennedy, Esq. of Day Hewett & Federman, Oklahoma City, Oklahoma.

For Respondent at the hearing: John Bevilacqua, Esq. of Shearson Lehman Brothers, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed: January 30, 1992.

Claimants' Steve Crowder, Cobra Oil Co., and Little River Energy Company's Submission Agreements signed on: February 24, 1992.

Statement of Answer filed by Respondent, Shearson Lehman Brothers, Inc. on September 28, 1992.

Respondent, Shearson Lehman Brothers, Inc.'s Submission Agreement signed, but not notarized or dated.

HEARING INFORMATION

Pre-Hearing Conference: January 8, 1993 for (one) session with the full panel.

Hearing Date: January 11, 1993 for two (2) sessions.

Hearing Location: Oklahoma City, Oklahoma.

CASE SUMMARY

Claimants Steve Crowder, Cobra Oil Co., and Little River Energy Company ("Claimants") alleged that Respondent Shearson Lehman Brothers, Inc. ("Shearson") had knowledge of Claimants' right to share in a settlement fund which had been established for NuCorp Energy common stock securities purchasers, but negligently failed to provide adequate information to the appropriate official thereby preventing Claimants from receiving notice of their rights. Claimants alleged that they suffered a loss as a result of Shearson's negligence to provide information to Claimants. The Claimants alleged that they had purchased 2500 shares of NuCorp Energy common stock through E.F. Hutton, now Shearson, on April 24, 1981, purchased 3000 shares of the same on June 16, 1981, purchased 2000 shares of the same on August 12, 1981, purchased 2500 shares of the same on November 16, 1981, purchased 2000 shares of the same on February 16, 1982, sold 2500 shares of the same on May 15, 1981, sold 3000 shares of the same on July 30, 1981, sold 6200 shares of the same on April 21, 1983, and sold 300 shares of the same on April 21, 1983. A class action had been formed as a result of the market price for NuCorp common stock, warrants, 9 1/4% debentures, and 19 3/4% debentures which had been artificially inflated as a result of materially false and misleading statements contained in various documents which were disseminated to the public by NuCorp. Claimants alleged that they were members of the class action.

Respondent Shearson generally denied the allegations set forth in the Statement of Claim. Shearson alleged that they had no duty to inform anyone that Claimants had purchased NuCorp stock, and that even if such a duty existed, Shearson, upon information and belief, did notify class counsel and the administrators of the settlement that Claimants had purchased NuCorp stock.

RELIEF REQUESTED

Claimants requested compensatory damages, together with the growth and income the money should have earned, pre-judgment interest on the compensatory damages, attorney's fees in the sum of \$5,717.00, expert witness fees, costs, punitive damages, and other relief the panel finds appropriate.

Respondent requested that the Statement of Claim be dismissed, and that costs, including attorneys' fees in the sum of \$3485.84 be assessed against Claimants.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Shearson Lehman Brothers, Inc. did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 12 of the Code and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

The parties have agreed that the Award in this matter may be executed by 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.

Claimants filed a Motion for Default Judgment because Respondent Shearson had failed to file an Answer to the Statement of Claim. Claimants Steve Crowder, Cobra Oil Company, and Little River Energy Company, subsequently withdrew their motion.

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. The Claimants' Statement of Claim is denied and dismissed in its entirety;[1]
2. Each of the parties shall bear their own costs and expenses incurred, including attorney's fees, other than those specifically enumerated for herein.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

1 pre-hearing conference session X \$300.00 = \$300.00 plus
2 hearing sessions X \$500.00 = \$1000.00. Net amount due: \$1300.00

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$150, and shall retain the hearing session deposit in the amount of \$500 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$650 are assessed against Respondent Shearson Lehman Brothers (\$500.00 for one hearing session and \$150 for half of the Pre-hearing conference fee) and \$150 against Claimants, jointly and severally, for their half of the pre-hearing conference fee.

[1] Arbitrator James Golden dissents.

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Additional Forum Fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Dated:

March 1, 1993

Dennis S. Boxeur

Dennis Boxeur, Esq.
Presiding Chair
Public Arbitrator

Michael R. Prescott, Esq.
Industry Arbitrator

Dissenting Arbitrators' Signature

James E. Golden, Dissenting
Public Arbitrator

Date of Service by the NASD:

3/23/93

Additional Forum Fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Dated:

Dennis Boxeur, Esq.
Presiding Chair
Public Arbitrator

March 13, 1993

Michael R. Prescott
Michael R. Prescott, Esq.
Industry Arbitrator

Dissenting Arbitrators' Signature

James E. Golden, Dissenting
Public Arbitrator

Date of Service by the NASD: _____

Additional Forum Fees assessed by the panel are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Dated:

Dennis Boxeur, Esq.
Presiding Chair
Public Arbitrator

Michael R. Prescott, Esq.
Industry Arbitrator

Dissenting Arbitrators' Signature



James E. Golden, Dissenting
Public Arbitrator

Date of Service by the NASD: _____