

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

R. Clinton Pittman

Claimant

CASE #92-01511
AWARD

vs.

Shearson Lehman Brothers, Inc.
Tony Giallourakis
Frank Rowan

Respondents

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 4, 1992, Claimant R. Clinton Pittman through his representative, Brian K. Lowe, Investor Arbitration Services, Woodland Hills, CA., alleged that Respondents Shearson Lehman Brothers, Inc. and Tony Giallourakis and Frank Rowan failed to follow his instructions to cancel an order to purchase \$5,000.00 Nuveen bonds, and that the Respondents misrepresented to him that the trade had already been executed, when in actuality, the order had not been filled until several hours after he talked to them. The Claimant further alleged that the Respondents assured him that the order would be carefully monitored so it would not be allowed to fall enough to create a margin call, but that a margin call was generated, which he refused to pay; thereby causing Respondent Shearson Lehman Brothers, Inc. to liquidate the position at a loss to the Claimant. The Claimant contended that he has suffered a loss as a direct and proximate result of the Respondents' negligence.

Respondents Shearson Lehman Brothers, Inc., Tony Giallourakis and Frank Rowan in a Joint Statement of Answer through their in-house counsel William Hohausser, maintained that the May order placed by the Claimant was a limit order, which was purchased pursuant to the Claimant's instructions, and that the transactions were paid for by check the very next day. The Respondents further maintained that they did not assure the Claimant the investment would not be allowed to fall far enough to trigger a margin call, nor was it the margin call that caused a loss to the Claimant. The Respondents contended that they acted in a professional and ethical manner at all times and in accord with all exchange and governmental regulations.

RELIEF REQUESTED

Claimant, R. Clinton Pittman requested \$2,920.59 in actual damages, plus interest, costs and return of the NASD filing fee.

Respondents Shearson Lehman Brothers, Inc., Frank Rowan and Tony Giallourakis requested the claims of the Claimant be dismissed.

OTHER ISSUES

Claimant R. Clinton Pittman's request for production of telephone records is denied.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Richard J. Jones, III, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on April 20, 1992 and by the Respondent Shearson Lehman Brothers, Inc. on July 13, 1992, Tony Giallourakis on September 14, 1992 and Frank Rowan on September 14, 1992.

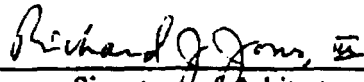
And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant R. Clinton Pittman against Respondents Shearson Lehman Brothers, Inc., Tony Giallourakis and Frank Rowan are dismissed in their entirety.
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 shall be retained by the NASD.

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AFFIRMATION

I, **RICHARD J. JONES, III, ESQ.**, 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: January 4, 1993