

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Harold L. Broman

Claimant

vs.

Shearson Lehman Hutton
Evan Bines

Respondents

CASE #92-01738
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 26, 1992, Claimant Harold L. Broman by and through his counsel Phillip M. Marshall, Esq. of Kinney Buch Mattrey & Marshall, Buffalo, NY, alleged that in June, 1987 he purchased 1,000 shares of Maxtor Corp. whereby Respondent Evan Bines of Respondent Shearson Lehman Hutton advised him the price of the stock was 22 1/8. Claimant further alleged that shortly after the transaction he received a confirmation slip which indicated a price per share of \$25.00 and not the price of 22 1/8, as quoted by Respondent Evan Bines. Claimant contended that in an effort to resolve the matter, his attorney directed correspondence to Respondent Shearson Lehman Hutton whereby Claimant was notified that they would review the transaction. Claimant further contended that information received from Respondent Shearson Lehman Hutton indicated that on June 19, 1987, Maxtor's high was 21 1/2 and a low of \$20 3/4, with a close of 21. Claimant asserted that he tendered a check in the amount of \$22,125.00 in payment of the stock; however, his account was debited an amount of \$25,000.00 Claimant further asserted that as a result of Respondents Shearson Lehman Hutton and Evan Bines' inappropriate handling of the transaction, he has sustained damages.

Respondents Shearson Lehman Hutton and Evan Bines by and through their in-house counsel William A. Hohausser, Esq., maintained that on June 12, 1987 Claimant Harold L. Broman authorized the purchase of 1,000 shares of Maxtor Corp., at which time, the stock traded between \$22.625 and \$25.00, without mark-up or mark-down, whereby Claimant paid \$24.625 plus a \$.0375 markup, for \$25.00 in total, which was within the trade limits for that day, and thus the price is eminently proper. Respondents further

maintained that the simple fact is that Claimant's purchase occurred on June 12, 1987 and the transaction "settled" on June 19, 1987, but did not occur then. Respondents contended that they have apprised Claimant of this fact and that the Statement of Claim is without merit, therefore, it should be dismissed.

RELIEF REQUESTED

Claimant Harold L. Broman requested \$2,875.00 in actual damages plus statutory interest from June 22, 1987 together with \$1,000.00 in attorney's fees and costs.

Respondents Shearson Lehman Hutton and Evan Bines requested the claim be denied and they be awarded their costs, including attorney's fees.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, David P. Polino, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on May 13, 1992, by the Respondent Shearson Lehman Hutton, Inc. on September 21, 1992 but not by the Respondent Evan Bines as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

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 claim of Claimant Harold L. Broman against Respondents Shearson Lehman Hutton, Inc. and Evan Bines is dismissed.
2. The parties shall bear their respective costs, including attorney's fees.
3. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Harold L. Broman shall be retained by the NASD, Inc.

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AFFIRMATION

I, DAVID P. POLINO, 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.

A handwritten signature in cursive script, appearing to read "D. P. Polino", is written above a horizontal line.

Signature of Arbitrator

DATE OF DECISION: November 18, 1992