

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Alfred Mannella

92-01835

Name of Respondents

Shearson Lehman Brothers, Inc.
Erwin J. Riven
Steven Knapp

REPRESENTATION

For Claimant Alfred Mannella ("Claimant"): Eliot Gersten, of Gersten & Clifford.

For Respondents Shearson Lehman Brothers, Inc. ("Shearson"), Erwin J. Riven ("Riven") and Steven Knapp ("Knapp"): John Bevilacqua, of Shearson.

CASE INFORMATION

Statement of Claim filed: June 1, 1992.

Claimant's Submission Agreement signed on: April 13, 1992.

Joint Statement of Answer filed by Respondents on: August 6, 1992.

Respondent Shearson's Submission Agreement signed on: August 5, 1992.

Respondent Riven's Submission Agreement signed on: August 10, 1992.

Respondent Knapp's Submission Agreement signed on: August 10, 1992.

HEARING INFORMATION

Hearing Dates/Sessions: March 23, 1993/2 sessions

April 27, 1993/1 session

Hearing Location: NASD, New York, NY

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CASE SUMMARY

Claimant alleged on or about July 25, 1991, Knapp made an unauthorized purchase of 5000 shares of Ford Motor Co. ("Ford") in Claimant's account. Claimant alleged Knapp told him the transaction was an error and would be "washed out" of his account. Claimant alleged a similar unauthorized purchase was made on August 5, 1991 and he instructed Knapp to reverse both trades. Claimant alleged that after he received his July 1991 statement and saw the July 25, 1991 transaction had not been canceled, he called Knapp and Knapp told him both purchases would be corrected on his August statement. Claimant alleged he spoke with Knapp's secretary on August 26 and 27, 1991 and learned the purchases of Ford were still in his account. Claimant further alleged he spoke with Sandra Layton of Shearson's Westport office and Erwin Riven, branch manager of the Westport office, about the transactions in his account. Claimant alleged he spoke with Knapp again and Knapp admitted he made the unauthorized purchases. Further, Claimant alleged he met with Knapp and Riven on or about September 10, 1991, wherein Knapp denied the purchases were unauthorized; however, Riven ordered the stock sold out of his account. Claimant also alleged the Ford purchases were made on margin and caused interest to be charged to his account and that Shearson did not cancel the trades, but sold the shares resulting in a loss and interest charges.

Respondents alleged that during July 1991, Claimant met with Knapp to discuss possible investment opportunities, whereby Knapp recommended the purchase of General Motors. Respondents maintained Claimant instead instructed Knapp to purchase 5000 shares of Ford because he was more interested in Ford due to its then higher per-share price and its history of paying a higher dividend. Respondents further alleged that on July 29, 1991, Claimant instructed Knapp to purchase a similar amount and that on August 1, 1991, Claimant returned to Shearson a signed letter indicating his approval of all prior trades. Respondents asserted that Claimant's complaint was an attempt to foist upon them the risks of a transaction into which he voluntarily entered. Respondents denied they acknowledged any wrongdoing or that they agreed to cancel any of the Ford purchases.

RELIEF REQUESTED

Claimant requested: actual damages in an amount in excess of \$39,000.00; interest, including margin interest; costs and attorneys' fees.

Respondents requested: the Statement of Claim be dismissed in its entirety; costs and attorneys' fees.

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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. Respondents Shearson Lehman Brothers, Inc. and Steven Knapp are hereby liable, jointly and severally, and shall pay to Claimant Alfred Mannella the sum of \$21,750.00;
2. Claimant Alfred Mannella's claims against Respondent Erwin J. Riven are hereby denied;
3. All other claims are dismissed;
4. Each party shall bear its own costs, including attorneys' fees; however, Respondents Shearson Lehman Brothers, Inc. and Steven Knapp are hereby liable, jointly and severally, and shall pay to Claimant Alfred Mannella the sum of \$200.00. Said amount to reimburse to Claimant \$200.00 of the \$400.00 postponement fee previously paid by Claimant to the NASD.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$120.00 non-refundable filing fee previously deposited by Claimant and the following Forum Fees are assessed.

3 sessions X \$400.00 = \$1,200.00 minus hearing session deposit of \$400.00 = net \$800.00 due.

Forum fees Assessed Against:

1. Claimant Alfred Mannella is hereby liable in the sum of \$600.00; however, in lieu of further payment, the NASD shall retain Claimant's hearing session deposit in the amount of \$400.00 and \$200.00 of the postponement fee previously paid

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to the NASD as noted above;

2. Respondents Shearson Lehman Brothers, Inc. and Steven Knapp are hereby liable, jointly and severally, in the amount of \$600.00; however, the amount due and owing to the NASD equals \$400.00 as noted above.

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

Arbitrator Signature

Mark R. Greenberg
Mark R. Greenberg/Industry Arbitrator

Date of Decision: June 14, 1993

STATE OF

N.Y.

COUNTY OF

N.Y.

On this 2 day of June, 1993, before me personally appeared Mark R. Greenberg known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that she/he executed the same.



ALAN M. WEISSMAN
Notary Public, State of New York
No. 31-4210200
Qualified in New York County
Commission Expires March 30, 95

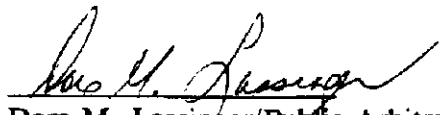
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to the NASD as noted above;

2. Respondents Shearson Lehman Brothers, Inc. and Steven Knapp are hereby liable, jointly and severally, in the amount of \$600.00; however, the amount due and owing to the NASD equals \$400.00 as noted above.

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

Arbitrator Signature


Dora M. Lassinger/Public Arbitrator

Date of Decision: June 14, 1993

STATE OF *NEW YORK*

COUNTY OF *KINGS*

On this *20th* day of May, 1993, before me personally appeared Dora M. Lassinger known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that she/he executed the same.

JULIA M. WEISS
Notary Public, State of New York
No. 21-4833568
Qualified in New York County
Commission Expires May 9, *1994*

Julia M. Weiss

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to the NASD as noted above;

2. Respondents Shearson Lehman Brothers, Inc. and Steven Knapp are hereby liable, jointly and severally, in the amount of \$600.00; however, the amount due and owing to the NASD equals \$400.00 as noted above.

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

Arbitrator Signature

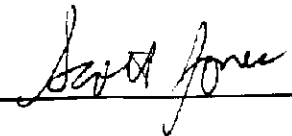

George M. Bulow/Public Arbitrator

Date of Decision: June 14, 1993

STATE OF NEW YORK

COUNTY OF NEW YORK

On this 11th day of May, 1993, before me personally appeared George M. Bulow known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that she/he executed the same.



SCOTT T. JONES
Notary Public, State of New York
No. 4939601
Qualified in New York County
Commission Expires July 5, 1994