

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

G. Patrick Stillman

92-03956

Name of Respondents

Shearson Lehman Brothers, Inc. (n/k/a Smith Barney Shearson)
Robert Grapin

REPRESENTATION

For Claimant G. Patrick Stillman ("Claimant"): David A. Flores, Esq. of the law firm of Hartman Underhill & Brubaker

For Respondents Shearson Lehman Brothers, Inc ("Shearson") and Robert Grapin ("Grapin"): Philip J. Murren, Esq. of the law firm of Ball, Skelly, Murren & Connell

CASE INFORMATION

Statement of Claim filed: November 20, 1992

Amended Statement of Claim filed: March 18, 1993

Claimant's Response to Respondents' Motion to Dismiss filed: March 18, 1993

Claimant's Submission Agreement signed on: November 11, 1992

Respondents' Shearson and Grapin (hereinafter collectively referred to as "Respondents") Motion to Dismiss and Answer filed: January 25, 1993.

Respondent Shearson's Submission Agreement signed on: December 22, 1992.

Respondent Grapin's Submission Agreement signed on: January 11, 1993.

HEARING INFORMATION

Hearing Date/Session: September 23, 1993 - one session

Hearing Location: NASD Office, Philadelphia, PA

CASE SUMMARY

Claimant alleged that he ordered the short sale of 3000 shares of Rouse stock. Claimant alleged that at the time the order was placed that Grapin told Claimant that if he sold short no funds would be required for two weeks. Claimant alleged that after the Rouse stock was sold short, Grapin called and asked for \$18,000 to cover the margin requirement. Claimant alleged that he reminded Grapin that he (Grapin) had told Claimant that Claimant would not need to deposit money for two weeks. Claimant alleged that at the end of the two week period Grapin called and wanted money. Claimant alleged that he instructed Grapin to cover his position which would have been covered at a loss of \$3,750. Claimant alleged that Grapin called Claimant again at Claimant's home requesting \$18,000, Claimant alleged that once again he directed Grapin to close the position and told Grapin he would send in the difference. Claimant alleged that Grapin wrongfully induced Claimant's treasurer to wire Respondents \$18,000. Claimant alleged that Respondents failed to follow his instructions, they failed to deliver Claimant's funds to him promptly, and they failed to disclose relevant and material information. Claimant alleged that Respondents wrongfully converted his funds to their own use.

Respondents maintained that Claimant's claim should be dismissed as Claimant's claim is barred by all applicable statutes of limitations. Respondents maintained that Claimant's claim lacks adequate specificity. Respondents categorically denied all allegations of wrongdoing and specifically maintained that Grapin had told Claimant that he must deposit monies to meet Shearson's margin requirements. Respondents maintained that Grapin told Claimant he was also required to execute and return, among other things, a written Customer Agreement and an IRS Form W-9. Respondents maintained that Claimant did not promptly return the documents and that Claimant was avoiding Respondents calls. Respondents maintained that Claimant never instructed Grapin to make a covering purchase to reduce his potential market loss. Respondents maintained that Shearson was compelled

to deposit monies with the Internal Revenue Service for Claimant's benefit. Respondents maintained that Claimant's claim for damages should be reduced by the amount of \$7,199.60 that Shearson paid to the IRS on Claimant's behalf. Respondents maintained that all market losses resulted from Claimant's decision to authorize the transaction.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$14,250, plus interest, punitive damages and attorney's fees.

Respondents requested that Claimant's claim be dismissed and that they be awarded their reasonable costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

That Respondents motion to dismiss on the basis that all applicable statutes of limitations has run is denied.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondents are jointly and severally liable to the Claimant and shall pay to the Claimant the sum of FOURTEEN THOUSAND TWO HUNDRED FIFTY AND 00/100 DOLLARS (\$14,250); plus interest at the rate of six percent (6%) simple interest per annum from December 1, 1990 until the date the award is paid.
2. That Claimant's request for punitive damages is denied in its entirety.
3. That the parties shall bear their own costs and attorneys' fees, except for as specifically provided for herein.

FORUM FEES

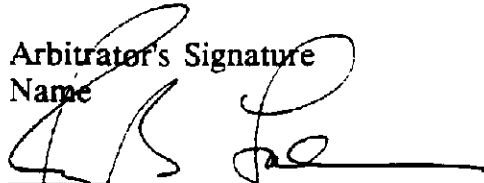
Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fee is assessed.

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1 hearing session x \$300 = \$300

That Respondents are directed to refund to Claimant his hearing session fee previously deposited by the Claimant of \$300.

Arbitrator's Signature
Name


Richard B. Laden

Public/Industry

Date of Decision: 12 October 1993

NASD Date of Decision: October 18, 1993