

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Chelsea Street Securities, Inc.

and

92-04304

Name of Respondents

Lew Lieberbaum & Co., Inc., Mark Lew,
David R. Clifton, David T. Cawthon,
Daniel J. Oreskovich and Paul Byatt

REPRESENTATION OF PARTIES

Chelsea Street Securities, Inc. ("**Claimant**") was represented by Joe B. Abbey, Esq., Dallas, Texas.

Lew Lieberbaum & Co., Inc., Mark Lew, David R. Clifton, David T. Cawthon, and Daniel J. Oreskovich ("**Respondents**") were represented by Jeffrey A. Hage, Esq. and Brian T. Morris, Esq. of Winstead Sechrist & Minick, Dallas, Texas.

Paul Byatt appeared at the hearing pro se.

CASE INFORMATION

The Statement of Claim was filed on or about December 28, 1992. Submission Agreement of Claimant was signed on December 22, 1992 by Gary S. Williky and Greg B. Wells.

Statement of Answer was filed by Respondents Lew Lieberbaum & Co., Inc., Mark Lew, David R. Clifton, David T. Cawthon, Daniel J. Oreskovich on or about March 9, 1993. Submission Agreement of Respondent Lew Lieberbaum & Co., Inc. was signed on March 9, 1993 by Mark I. Lew. Submission Agreement of Respondent Mark I. Lew was signed on April 2, 1993. Submission Agreement of Respondent David R. Clifton was signed on April 2, 1993. Submission Agreement of David T. Cawthon was signed on April 2, 1993. Submission Agreement of Daniel J. Oreskovich was signed on April 2, 1993.

HEARING INFORMATION

A pre-hearing conference was held on Friday, February 25, 1994 for one (1) session presided by Lisa R. Browning, Esq.

The hearing was held on Tuesday, March 8, 1994 for two (2) sessions, Wednesday, March 9, 1994 for two (2) sessions, and Thursday, March 10, 1994 for two (2) sessions in Dallas, Texas for a total of six (6) sessions.

CASE SUMMARY

Claimant alleged that Respondents conspired to raid or hire away from it certain of its registered representatives with the intention of employing them in a competing brokerage operation in the Dallas, Texas area. It was alleged in furtherance of the conspiracy, Respondents made many telephone and personal contacts with Atir F. Fadhli and Calvin K. Mees, Damon C. Parker, Joel M. Dziedzic, Don A. Gonzalez, Mark B. Greenberg and John Y. Cole while they were employed by Claimant or elsewhere; made slanderous and maliciously deleterious remarks about Claimant, its principals, its business practices and securities in which Claimant made a market, as a means of inducing, coaxing and persuading employees of Claimant to terminate their employment.

Respondents denied the allegations set forth in the Statement of Claim. Respondents David R. Clifton, David T. Cawthon, and Daniel J. Oreskovich further stated that they were deeply concerned about the future of Chelsea and did not want to work in such a precarious environment. The individual Respondents David R. Clifton, David T. Cawthon, and Daniel J. Oreskovich also stated that they felt that they were mistreated, lied to, manipulated and coerced to recommend only house stocks and exercised their right to terminate their employment and further their career by joining an investment banking and brokerage firm of their choice.

RELIEF REQUESTED

Claimant requested an award of \$1,500,000.00 general damages and an award of \$4,500,000.00 punitive damages against Respondents Lew Lieberbaum & Co., Inc., Mark I. Lew, and Daniel J. Oreskovich on the claim of intentional and malicious interference with and inducement of the termination of existing employment contracts and the beneficial relationships between Claimant and David R. Clifton, Atir F. Fadhli and Calvin K. Mees. Claimant requested an award of \$2,500,000.00 general damages and an award of \$5,000,000.00 punitive damages against Respondents Lew Lieberbaum & Co., Inc., Mark I. Lew, David T. Cawthon, David R. Clifton and Daniel J. Oreskovich on the claim of intentional and malicious interference with and inducement of the termination of existing employment contracts and the beneficial relationships between

Claimant and Damon C. Parker, Joel M. Dziedzic, Don A. Gonzalez, Mark B. Greenberg and John Y. Cole.

Respondents requested that the claims be summarily dismissed and that all costs be assessed against the Claimant.

OTHER ISSUES CONSIDERED & DECIDED

During the pre-hearing conference conducted on Friday, February 25, 1994, Claimant moved to amend the Statement of Claim to include an allegation of market manipulation. After hearing the arguments presented on behalf of the parties, the Chairperson denied the motion without prejudice. At the commencement of the hearing, the motion was presented to the full panel which denied the motion without prejudice.

During the course of the hearing, Respondent Paul Byatt made an oral motion to dismiss him from this matter as a result of his having filed for bankruptcy. The motion was granted.

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 original(s) remain on file with the N.A.S.D.

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. The claims asserted in this matter shall be and hereby are dismissed and denied in their entirety.
2. Each party shall bear its own costs, expenses and fees including attorney's fees incurred in this matter not specifically enumerated herein.

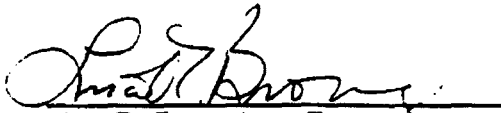
FORUM FEES

Pursuant to §44(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$500.00 and shall retain as forum fees the hearing session deposit in the amount of \$1,500.00 previously deposited with the N.A.S.D. by the Claimant.

Claimant shall be and hereby is liable for and shall pay to the N.A.S.D. the sum of \$7,500.00 as forum fees.

Forum fees are calculated at the rate of \$1,500.00 per hearing session and \$300.00 for each prehearing conference, if any.

The N.A.S.D. shall retain postponement fees in the amount of \$1,000.00 previously deposited with the N.A.S.D. by Respondent Lew Lieberbaum & Co., Inc. Fees are payable to the **National Association of Securities Dealers, Inc.**



Lisa R. Browning, Esq.
Industry Arbitrator, Presiding Chair

Dated:

March 10, 1994


Lyn Lane
Industry Arbitrator

March 10, 1994


Saul P. Baker
Industry Arbitrator

March 10, 1994

3/10/94 Service date by NASD