

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Edward Nordan

93-01713

Name of Respondents

Shearson Lehman Brothers, Inc.
Jonathan S. Gold
Robert Finkelstein
Jody Eisenman

REPRESENTATION

For Claimant: James P. Murphy, Esq. of Berry, Moorman, King & Hudson.

For Respondents, Shearson Lehman Brothers, Inc., Jonathan S. Gold, Robert Finkelstein and Jody Eisenman: John E. Jenkins, Esq. of Lehman Brothers, Inc.

CASE INFORMATION

Statement of Claim filed: April 28, 1993.

First Amended Statement of Claim filed on August 20, 1993.

Claimant's Submission Agreement signed on: May 11, 1993.

Joint Statement of Answer filed by Respondents, Shearson Lehman Brothers, Inc., Jonathan S. Gold, Robert Finkelstein and Jody Eisenman on: September 8, 1993.

Respondents, Shearson Lehman Brothers, Inc., Jonathan S. Gold, Robert Finkelstein and Jody Eisenman did not submit executed Submission Agreements.

HEARING INFORMATION

Hearing Dates/Sessions: December 20, 1993 - Three Sessions
 December 21, 1993 - Two Sessions

Hearing Location: American Arbitration Association - Southfield, MI.

CASE SUMMARY

Claimant alleges that through an unsolicited cold call, Respondent, Jonathan S. Gold ("Gold") established a relationship with him by making false and misleading statements and inducing the Claimant to purchase shares of Sun State Savings and Loan Association ("the Bank"). Claimant alleges that Respondent, Shearson Lehman Brothers, Inc. ("Shearson") sold the shares to him out of its own portfolio and knew or should have known that the Bank was in serious financial trouble with federal regulators, and was on the verge of being taken over by the Resolution Trust Corporation.

Claimant alleges that Shearson "dumped" the stock on him since he was an unsuspecting and innocent party. Claimant alleges that the cold call with the recommendation to purchase MCA, Inc. stock was a ruse in order to establish a fiduciary relationship and permit Shearson to dump a block of the Bank's shares it held in its own account.

Respondents maintain that the Claimant is a wealthy and sophisticated investor and represented himself as such to the Respondents. Respondents maintain that Gold recommended MCA stock to the Claimant and that the Claimant was familiar with the history of MCA and connected takeover activity. Respondents maintain that Sun State Savings and Loan was also a takeover situation, but was not recommended by the Firm. Respondents maintain that this was made clear to the Claimant. Respondents maintain that Gold dissuaded the Claimant from purchasing more shares of Sun State Savings and Loan during a period of time when the stock price was slowly declining. Respondents maintain that Shearson had virtually no inventory of the stock and in fact went into the market to buy the shares that were sold to the Claimant.

RELIEF REQUESTED

Claimant requested damages in the amount of \$65,627.00, exemplary damages in the amount of \$100,000.00 and treble damages.

Respondents requested that the Statement of Claim be dismissed in all respects.

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.

Notwithstanding their failure to submit executed Submission Agreements, Respondents, Shearson Lehman Brothers, Inc., Jonathan S. Gold, Robert Finkelstein and Jody Eisenman were required to submit to this arbitration. Therefore, the Respondents are bound by this panel's rulings and determinations.

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 Statement of Claim is hereby dismissed in its entirety as to Respondents, Robert Finkelstein and Jody Eisenman. This is the unanimous ruling of the Arbitrators.
- 2) The Statement of Claim is hereby dismissed in its entirety as to Respondents, Shearson Lehman Brothers, Inc. and Jonathan S. Gold. This is the majority ruling of the Arbitrators, with the Chairperson in dissent.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

\$200.00	Non-refundable filing fee
\$3,750.00	Hearing Session Fees (\$750.00 x 5 sessions)

- 1) Total forum fees in the amount of \$3,950.00 are hereby assessed against the Respondent, Shearson Lehman Brothers, Inc. Shearson is directed to re-imburse to the Claimant the amount of \$950.00 Claimant previously paid to the NASD. Shearson is further directed to pay the balance of \$3,000.00 to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Industry Arbitrator

Robert J. Scafuri
Robert J. Scafuri, Esq.

Executed on:

Date of Decision: 2/2/94

Date of Decision: February 11, 1994

Notwithstanding their failure to submit executed Submission Agreements, Respondents, Shearson Lehman Brothers, Inc., Jonathan S. Gold, Robert Finkelstein and Jody Eisenman were required to submit to this arbitration. Therefore, the Respondents are bound by this panel's rulings and determinations.

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 Statement of Claim is hereby dismissed in its entirety as to Respondents, Robert Finkelstein and Jody Eisenman. This is the unanimous ruling of the Arbitrators.
- 2) The Statement of Claim is hereby dismissed in its entirety as to Respondents, Shearson Lehman Brothers, Inc. and Jonathan S. Gold. This is the majority ruling of the Arbitrators, with the Chairperson in dissent.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

\$200.00	Non-refundable filing fee
\$3,750.00	Hearing Session Fees (\$750.00 x 5 sessions)

- 1) Total forum fees in the amount of \$3,950.00 are hereby assessed against the Respondent, Shearson Lehman Brothers, Inc. Shearson is directed to re-imburse to the Claimant the amount of \$950.00 Claimant previously paid to the NASD. Shearson is further directed to pay the balance of \$3,000.00 to the NASD, Inc.

Concurring Arbitrator's Signature

Name


Vasken G. Laktzian

Industry Arbitrator

Date of Decision: February 11, 1994

Notwithstanding their failure to submit executed Submission Agreements, Respondents, Shearson Lehman Brothers, Inc., Jonathan S. Gold, Robert Finkelstein and Jody Eisenman were required to submit to this arbitration. Therefore, the Respondents are bound by this panel's rulings and determinations.

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 Statement of Claim is hereby dismissed in its entirety as to Respondents, Robert Finkelstein and Jody Eisenman. This is the unanimous ruling of the Arbitrators.
- 2) The Statement of Claim is hereby dismissed in its entirety as to Respondents, Shearson Lehman Brothers, Inc. and Jonathan S. Gold. This is the majority ruling of the Arbitrators, with the Chairperson in dissent.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed:

\$200.00	Non-refundable filing fee
\$3,750.00	Hearing Session Fees (\$750.00 x 5 sessions)

- 1) Total forum fees in the amount of \$3,950.00 are hereby assessed against the Respondent, Shearson Lehman Brothers, Inc. Shearson is directed to re-imburse to the Claimant the amount of \$950.00 Claimant previously paid to the NASD. Shearson is further directed to pay the balance of \$3,000.00 to the NASD, Inc.

Concurring Arbitrator's Signature

Name



Edward C. Pedersen, Esq.

Public Arbitrator

Executed on:

Date of Decision: 2-7-94

Date of Decision: Febrary 11, 1994