

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Nathan Lilienthal

93-01871

Name of Respondent

Shearson Lehman Brothers, Inc.

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on May 10, 1993, Claimant Nathan Lilienthal, who appeared Pro Se, alleged that Respondent Shearson Lehman Brothers, Inc. charged him a \$50.00 account fee without ever having provided notification of this newly imposed fee. The Claimant contended that if he had been made aware of the fee, he would have transferred his account so as not to have to pay it, but that the Respondent's negligence in notifying him, caused the fee to be assessed. The Claimant contended further that the Respondent should be required to reimburse this fee to him.

Respondent Shearson Lehman Brothers, Inc., n/k/a Smith Barney Shearson, through its in-house counsel, Ann Parry, Esq., maintained that the Respondent had a contractual right to impose a fee and it gave proper notice to the Claimant of the imposition of the fee; therefore, the Claimant's claim is without merit.

In an amendment to his original complaint, Claimant Nathan Lilienthal further alleged that the Respondent failed to comply with his requests for information as to when and how notice was given regarding the fee increase of the account.

RELIEF REQUESTED

Claimant Nathan Lilienthal requested the return of the \$50.00 account fee, plus costs, and \$100.00 in punitive damages, and further requested the Respondent be ordered to produce the notice of the newly imposed fee.

Respondent Shearson Lehman Brothers, Inc. requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Evelyn Ann Kramer, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 10, 1993 and by the Respondent on August 16, 1993.

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 claims of the Claimant Nathan Lilienthal against Respondent Shearson Lehman Brothers, Inc. are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$30.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, EVELYN ANN KRAMER, 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.



Signature of Arbitrator

DATE OF DECISION: December 2, 1993