

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

David Kissi

93-03025

Name of Respondents

Shearson Lehman Brothers, Inc. n/k/a  
Smith Barney Shearson  
Charles W. Anderson

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**CASE SUMMARY**

In a claim filed with the National Association of Securities Dealers, Inc. on August 3, 1993, Claimant David Kissi, who appeared Pro Se, alleged that Respondent Shearson Lehman Brothers, Inc., through its registered representative, Charles W. Anderson, failed to give proper notice of a margin call in his account, which caused the forced liquidation of 394 shares of Novell stock to cover the debit. The Claimant further alleged that the Respondents could have left a detailed message on his answering machine, or sent him notice by FAX, or could have paged him, but failed to make any extra effort to notify him of the debit, and that he should be compensated for losses he has incurred due to the unjustified sale of his Novell stock.

Respondents Shearson Lehman Brothers, Inc. n/k/a Smith Barney Shearson and Charles W. Anderson, through their in-house counsel, Ann Parry, Esq., maintained that Respondent Anderson kept the Claimant apprised of his position relative to the minimum margin requirements each time they spoke, and also that the firm's margin department sent many mailgrams advising the Claimant that the account was under margined and that he must deposit additional collateral or funds to avoid liquidations. The Respondents further maintained that they went out of their way to accommodate the Claimant, that the liquidation of his 394 shares of Novell stock was not brought about by any wrongdoing on the part of the Respondents, and that therefore, they should not be held liable in this matter.

In a reply to the Answer, the Claimant refuted the defenses of the Respondents and stated that he has consistently overpaid any margin calls in his account, and that the Respondents failed to properly notify him before the liquidation took place, causing damages for which the Respondents should be held liable.

**RELIEF REQUESTED**

Claimant David Kissi requested \$10,000.00 in actual damages, plus interest and costs.

Respondents Shearson Lehman Brothers, Inc. n/k/a Smith Barney Shearson and Charles W. Anderson 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, Leland M. Cheskis, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on July 28, 1993, by the Respondent Shearson Lehman Brothers, Inc. on October 15, 1993 and by Respondent Charles W. Anderson on November 29, 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 David Kissi against Respondent Shearson Lehman Brothers, Inc. n/k/a Smith Barney Shearson and Charles W. Anderson are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

**AFFIRMATION**

I, **LELAND M. CHESKIS**, 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: January 24, 1994