

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Paul A. Juergens

93-04209

Name of Respondents

Shearson Lehman Brothers, Inc. (n/k/a Smith Barney, Inc.)
Frank Esposto

REPRESENTATION

For Claimant Paul A. Juergens ("Claimant"): appeared pro se

For Respondents Shearson Lehman Brothers, Inc. ("Shearson") and Frank Esposto ("Esposto"): Linda R. Alpert, Associate General Counsel at Smith Barney, Inc.

CASE INFORMATION

Statement of Claim filed: October 12, 1993
Claimant's Submission Agreement signed on: October 7, 1993
Claimant's Amended Statement of Claim filed: June 8, 1994

Joint Statement of Answer filed by Respondents Shearson and Esposto (collectively referred to as "Respondents") on: January 20, 1994
Shearson's Submission Agreement signed on: February 8, 1994
Esposto's Submission Agreement signed on: January 6, 1994
Respondents' Joint Response to Claimant's Amended Statement of Claim filed: June 13, 1994

HEARING INFORMATION

Hearing Date/Sessions: July 20, 1994 - two sessions

Hearing Location: NASD, District Office, Philadelphia, PA

CASE SUMMARY

Claimant alleged that his stated investment objective was maximum income with minimal risk of capital. Claimant alleged that Esposto induced him to purchase stocks that were unsuitable for Claimant's age and investment goals. Claimant alleged that Respondents failed to disclose the attendant risks in the investments that Esposto was pushing. Claimant alleged that Esposto used pressured sales tactics to induce Claimant to make purchases and that Esposto wrongfully encourage Claimant to make investments on margin. Claimant alleged that when he confronted Esposto about cancelling the Xoma trade, closing Claimant's margin account and wiping out Claimant's interest charges, Esposto told Claimant there was nothing he could do. Claimant alleged that Esposto knew the investments he was recommending were unsuitable for Claimant and that Esposto churned Claimant's account.

Respondents categorically denied all allegations of wrongdoing asserted by Claimant. Respondents maintained that Claimant understood and approved all transactions in his account. Respondents maintained that Claimant understood the risks associated with stock ownership. Respondents maintained that all investments were suitable for Claimant in light of his actual investments objectives and net worth. Respondents maintained that Claimant's account was not churned. Respondents maintained that Claimant was eager to speculate and purchase more aggressive investments in hopes of achieving a higher return. Respondents maintained that Esposto did not use high pressured sales tactics nor did Esposto guarantee the performance of any investment. Respondents maintained that Esposto was in constant communication with Claimant and gave him accurate information.

RELIEF REQUESTED

Claimant requested: 1) Cancellation of all interest charged on Claimant's margin account from the date of his first purchase of Xoma stock until the date of the award, 2) Cancellation of Claimant's two purchases of Xoma stock, 3) Termination of Claimant's margin account with Shearson, 4) return of the sales proceeds from the sale of Chips & Technologies which was credited to purchase Xoma, 5) payment of all fees for Arbitration by the Respondents, and 6) punitive damages in the amount of \$1,000.

Respondents requested: That Claimant's claim be dismissed and that Claimant be assessed all costs and fees.

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.

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 Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs and fees, except as specifically reflected below.
3. That all other claims for relief, including Claimant's claim for punitive damages, is denied in its entirety.

FORUM FEES

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

2 hearing sessions x \$400 = \$800

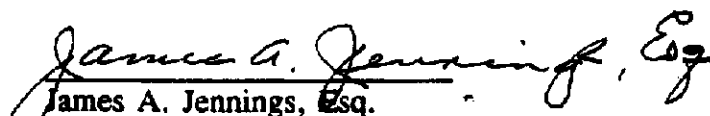
Forum fees Assessed Against: Claimant is assessed forum fees in the amount of \$800; however, Claimant is entitled to an offset in the amount of \$400 which was previously paid. Therefore, Claimant owes a balance of \$400.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature

Name

Public/Industry


James A. Jennings, Esq.
Chairman


Public

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.

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 Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs and fees, except as specifically reflected below.
3. That all other claims for relief, including Claimant's claim for punitive damages, is denied in its entirety.

FORUM FEES

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

2 hearing sessions x \$400 = \$800


Forum fees Assessed Against: Claimant is assessed forum fees in the amount of \$800; however, Claimant is entitled to an offset in the amount of \$400 which was previously paid. Therefore, Claimant owes a balance of \$400.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature

Name

Public/Industry


Ellen S. Hexter

8/5/94 Public
Public

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.

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 Claimant's claim is denied in its entirety.
2. That the parties shall bear their respective costs and fees, except as specifically reflected below.
3. That all other claims for relief, including Claimant's claim for punitive damages, is denied in its entirety.

FORUM FEES

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

2 hearing sessions x \$400 = \$800

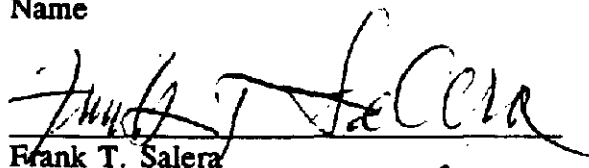
Forum fees Assessed Against: Claimant is assessed forum fees in the amount of \$800; however, Claimant is entitled to an offset in the amount of \$400 which was previously paid. Therefore, Claimant owes a balance of \$400.

Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrator's Signature

Name

Public/Industry


Frank T. Salera

Industry