

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Stuart Elkins

93-05150

Name of Respondents

Shearson Lehman Brothers, Inc. n/k/a Smith Barney, Inc.
Rod Garner

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on December 14, 1993, Claimant Stuart Elkins, who appeared Pro Se, alleged that Respondent Shearson Lehman Brothers, Inc. n/k/a Smith Barney, Inc., through its registered representative, Respondent Rod Garner, used high pressure tactics to convince him to purchase 500 shares of Scitex, and that the Respondents led him to believe substantially better sales and earnings were to be reported, but instead, dramatically lower sales and earnings were reported within 2 days of his purchase. The Claimant contended that he has suffered damages due to the wrongdoing of the Respondents, and therefore they should be held liable.

Respondent Shearson Lehman Brothers, Inc. n/k/a Smith Barney, Inc. and Rod Garner, through their in-house counsel, Ellen Slipp, Esq., New York, NY, maintained that they have not violated any rules, regulations or applicable laws, and that any alleged losses of the Claimant are due to market conditions beyond the Respondents' control. The Respondents also maintained that the Claimant is a sophisticated investor who is fully capable of making his own investment decisions, and that he alone is responsible for any losses he may have suffered.

RELIEF REQUESTED

Claimant Stuart Elkins requested \$5,570.20 in actual damages.

Respondent Shearson Lehman Brothers, Inc. n/k/a Smith Barney, Inc. and Rod Garner requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Michael S. Corona, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on December 12, 1993, by Respondent Smith Barney, Inc. on March 13, 1994 and by Respondent Rod Garner on August 29, 1994.

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 Stuart Elkins against Respondents Shearson Lehman Brothers, Inc. n/k/a Smith Barney, Inc. and Rod Garner 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 Stuart Elkins shall be retained by the NASD, Inc.

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AFFIRMATION

I, **MICHAEL S. CORONA**, 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.

A handwritten signature in black ink, appearing to read 'Michael S. Corona', written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: October 21, 1994