

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

William Harrison Norton,
Claimant,

v.

No. 94-00304

Smith Barney Shearson, Inc. f/k/a
Shearson, Lehman Hutton, and
Rick Stern

Respondents.

REPRESENTATION OF PARTIES

Claimant William Harrison Norton ("Claimant") appeared on his own behalf.

Respondents Smith Barney Shearson and Rick Stern ("Respondents") were represented by Ann Parry, Esq., of Smith Barney Shearson, New York, New York.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about January 17, 1994. Claimant's Submission Agreement was signed on January 17, 1994.

Respondents' Answer to the Statement of Claim was filed on or about May 19, 1994. Respondents' Submission Agreement was signed on May 20, 1994.

HEARING INFORMATION

Hearing date: February 22, 1994. One (1) sessions.

Hearing Location: Kansas City, Missouri.

CASE SUMMARY

Claimant alleged that Respondents' conduct associated with the purchases of Crossland Savings Company ("CSC") stock were reprehensible and fraudulent. Claimant stated that Rick Stern ("Stern") took over his account in 1988 and had contacted Claimant with the intention of selling Claimant CSC stock. Claimant further alleged that Stern made misleading statements to him

concerning CSC. Claimant also alleged that: Respondents had reliable information available to them that CSC was in serious financial trouble and not a stock that should have been recommended for purchase; he did not find out about CSC's condition until CSC was not reported on his statements; and Claimant discovered, sometime after purchasing CSC, that CSC was bankrupt.

In their Answer, Respondents denied all allegations of wrongdoing, and denied any liability to Claimant as asserted in the Statement of Claim. In addition, Respondents asserted the following affirmative defenses:

1. Claimant failed to state a claim upon which relief can be granted.
2. By reason of Claimant's failure to complain promptly after receipt of written confirmations, monthly statements and other documents evidencing or setting forth the transactions in Claimant's account, Claimant is barred from recovery under the doctrines of ratification, account stated, estoppel, waiver and laches.
3. Claimant received monthly statements and confirmation slips which apprised him of the status of his investments and equity in his account. If Claimant was not satisfied with the composition of his portfolio, Claimant failed to timely notify Respondents or act to adjust his portfolio. Accordingly, Claimant is barred from recovery.
4. Claimant's claims are barred by the applicable statutes of limitations.
5. Any damages incurred by Claimant were caused by his own acts or omissions not by any acts or omissions on the part of Respondents.
6. Claimant failed to mitigate his alleged damages.

RELIEF REQUESTED

Claimants requested the following award against the Respondents in the amount of \$5,535.69.

Respondents requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed by 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 original(s) 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. Claimant William Harison Norton's claims against the Respondents are, and each of them, denied and dismissed with prejudice.

OTHER COSTS

Each party shall bear its own costs associated with this arbitration, including attorneys' fees, except as set forth more fully below.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure (the "Code"), the following forum fees are assessed:

1 hearing session @ \$200.00 = \$200.00

Pursuant to Section 43(c) of the Code, the NASD shall retain the nonrefundable filing fee in the amount of \$75.00, and shall retain \$100.00 of the \$200.00 hearing session deposit previously paid to the NASD by the Claimant.

Additional Forum Fees in the amount of \$100.00 are assessed jointly and severally against the Respondents.

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

ARBITRATOR'S SIGNATURE

Dated:

Name:

February 23, 1995

Murray S. Levin /s/
Murray S. Levin
Presiding Chair
Public Arbitrator

2-28-95