

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
AWARD**

In the matter of the Arbitration Between

Name of Claimant(s)

William Robert DePalma

v.

NASD Arbitration
No. 94-00650

Name of Respondent(s)

Shearson Lehman Brothers, Inc.
Christopher George Rodgers

REPRESENTATION

For Claimant: Anthony Trepel, Esq.
 Trepel & Clark, P.C.
 San Jose, California

For Respondents: William A. Hohausser, Esq.
 Smith Barney, Inc.,
 New York, New York

CASE INFORMATION

Statement of Claim filed: February 22, 1994

Claimant's Submission Agreement signed: February 17, 1994

Joint Statement of Answer filed: May 12, 1994

Respondents' Submission Agreements signed:

Shearson Lehman Brothers, Inc.: May 11, 1994
Christopher George Rodgers: May 31, 1994

HEARING INFORMATION

A pre-hearing telephone conference lasting one session was held on November 6, 1995.

The evidentiary hearing was held in San Francisco, California, as follows:

November 20, 1995 - 2 sessions

November 21, 1995 - 2 sessions

November 22, 1995 - 3 sessions

CASE SUMMARY

Claimant alleged lack of suitability and misrepresentation with respect to the recommendation to purchase the common stock of Synergen.

Respondents denied the allegations of wrongdoing, and asserted that Claimant requested Respondent Rodgers to recommend speculative stocks which might provide a means to recoup previous losses. Respondents also asserted that it was Claimant's decision to invest solely in Synergen and to hold the position. Respondents also asserted that Claimant continued to trade in the account without complaint for over a year after the Synergen stock was sold.

RELIEF REQUESTED

Claimant requested damages of \$234,000 plus lost opportunity costs, punitive damages, interest and attorney's fees.

Respondents requested dismissal of all claims.

OTHER ISSUES CONSIDERED AND 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 arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant did not establish with sufficient evidence that (1) his investment goals at the time of the purchase of Synergen stock were anything other than speculation; (2) Respondent Chris Rodgers told him that Synergen had "dozens of products"; and (3) Rodgers told him that Synergen had "\$500 million in the bank." Accordingly, all of Claimant's claims against Respondents Shearson and Rodgers are dismissed.

2. The parties shall each bear their respective costs including attorney's fees.

3. The evidence established that closer supervision by Shearson of its San Jose branch office would not have permitted the DePalmas' extended office visits, creating what was described by other Shearson employees as a party atmosphere, and interfering with Rodgers' client development. Additionally, had both Respondents been more diligent about documenting their investment recommendations and admonitions with respect to Claimant's obviously risky trading activities, any misunderstandings which gave rise to this action could have been avoided. Accordingly, all forum fees are assessed against Shearson.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the NASD shall retain the \$200 non-refundable filing fee paid by Claimant, but shall refund his \$750 hearing session deposit.

Respondent Shearson is assessed all forum fees, as follows, payable to the NASD.

1 pre-hearing session @ \$300/session	-	\$ 300.00
7 hearing sessions @ \$750/session	-	<u>5,250.00</u>
Total fees	-	\$ 5,550.00

ARBITRATORS

Name Public / Industry

Bette Roth

Public Arbitrator


Beverly Elaine Narayan

Public Arbitrator

Frank Weaver

Industry Arbitrator

Concurring Arbitrators' Signatures



Bette Roth

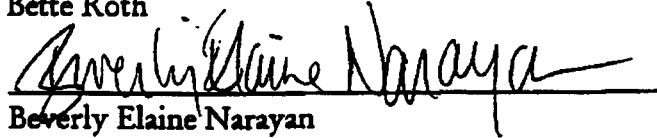
Beverly Elaine Narayan

Frank Weaver

Date served: 12/20/95

Concurring Arbitrators' Signatures

Bette Roth



Beverly Elaine Narayan

Frank Weaver

Date served: 12/20/95

Concurring Arbitrators' Signatures

Bette Roth

Beverly Elaine Narayan

Frank Weaver

Date served: 12/20/95