

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Omar Aslaoui

94-01664

Name of Respondent

Shearson Lehman Brothers, Inc.

REPRESENTATION

The Claimant appeared pro se.

For Respondent Shearson Lehman Brothers, Inc. appeared Ellen Slipp, Esq., of Shearson Lehman Brother's in-house Counsel.

CASE INFORMATION

The Statement of Claim was filed on April 18, 1994. Statement of Claim update, Part A was dated February 6, 1995 and Statement of Claim update, Part B was dated February 5, 1995. Claimant's Submission Agreement was signed on May 2, 1994.

The Statement of Answer filed by Respondent Shearson Lehman Brothers, Inc. was filed on January 20, 1995.

Respondent Shearson Lehman Brothers, Inc.'s Submission Agreement was executed on January 20, 1995.

HEARING INFORMATION

Hearing Date/Sessions: September 25, 1995 - 2 sessions

The hearing was held at the NASD, Inc. offices located in New York City, New York.

CASE SUMMARY

Claimant alleged that on March 14, 1983, respondent purchased Balcor Realty Investment 83 Limited Partnership for Claimant's account through its registered representative for an investment of \$28,000.00. Claimant also alleged that Balcor had been touted to claimant as being an American Express Company. Throughout, the years, claimant allegedly contacted respondent to determine the status of the investment maintaining that the monthly account statements reflected a face value of \$28,000.00.

Claimant maintained that at the beginning of 1994, he learned that the Balcor investment was primarily a tax write-off vehicle for which no tax benefit was derived as Claimant is exempt from filing U.S. taxes.

Claimant also learned that the investment was worth approximately \$1,645.00 in the secondary market. Claimant alleged that the investment was unsuitable and was misrepresented to him by the respondent.

Respondent denied all allegations of wrongdoing asserted against it. Respondent alleged that claimant subscribed for twenty-eight units of Balcor after having reviewed the prospectus and subsequently completing and signing a subscription agreement. Respondent maintained that neither the prospectus nor the investors letters sent to claimant indicated a guarantee associated with this investment.

Respondent maintained that claimant received a prospectus as well as other documentation which fully described the objectives, terms and risks of the Balcor investment; that claimant cannot allege misrepresentation based on the broker's activity where inclusion of sufficient cautionary statement in a prospectus renders alleged misrepresentation and omissions non-actionable; that Claimant failed to state a claim upon which relief could be granted; that respondent did not violate any rules, regulations or applicable laws; that claimant is barred from recovery based on the doctrines of ratification, laches, waiver and estoppel; and that the claim is barred in whole or in part by the applicable statutes of limitations.

RELIEF REQUESTED

Claimant requested an award in the sum of \$28,000.00 which represented the amount of the Balcor Realty Inv 83 Limited Partnership investment, plus 7% interest on the total sum invested, from March 8, 1983 to the date of the final payment of the amount due in the sum of \$23,030.00, loss deprivation and other compensation covering the period for Respondent's procrastination, delaying tactics, and disruptive attitude. Further, Claimant requested an award for any damage or harm to the Claimant's interests as the Claimant still maintains his account with the Respondent firm, legal consultation and representation fees in the sum of \$11,700.00 and miscellaneous expenses incurred in the sum of \$700.00. The total amount requested by Claimant is \$63,430.00.

Respondent requested that the statement of claim be dismissed in its entirety and that costs be assessed against claimant.

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. Respondent be and hereby is liable and shall pay to the claimant the sum of \$22,680.00, plus interest at the statutory rate of 9% from May 4, 1994 until the date of payment.
2. Each party shall bear their respective costs, including attorneys' fees.
3. All other claims be and hereby are denied.

FORUM FEES

Pursuant to Section 43 of the Code of Arbitration Procedure, the following Forum Fees are assessed:

2 sessions x \$400.00 per session = \$800.00 minus hearing session deposited previously deposited by Claimant with the NASD = \$400.00 due.

Respondent be and hereby is liable and shall pay to the NASD, Inc. the sum of \$400.00 representing outstanding forum fees.

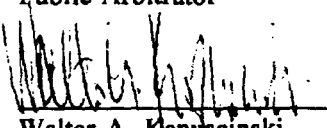
Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

Name

Michel Landron
Public Arbitrator - Chairperson

Pamela Roderick
Public Arbitrator



Walter A. Kapuscinski
Industry Arbitrator

I, Walter A. Kapuscinski, do hereby affirm pursuant to Article 7507 of the Civil Procedure Law and Rules, that this is my decision in the above-captioned matter.



Walter A. Kapuscinski

NASD Date of Decision: November 27, 1995

FORUM FEES

Pursuant to Section 43 of the Code of Arbitration Procedure, the following Forum Fees are assessed:

2 sessions x \$400.00 per session = \$800.00 minus hearing session deposited previously deposited by Claimant with the NASD = \$400.00 due.

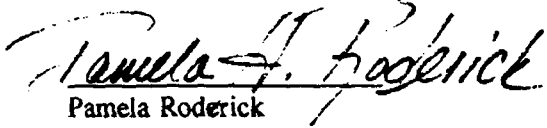
Respondent be and hereby is liable and shall pay to the NASD, Inc. the sum of \$400.00 representing outstanding forum fees.

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

ARBITRATION PANEL

Name

Michel Landron
Public Arbitrator - Chairperson


Pamela Roderick
Public Arbitrator

Walter A. Kapuscinski
Industry Arbitrator

I, Pamela Roderick, do hereby affirm pursuant to Article 7507 of the Civil Procedure Law and Rules, that this is my decision in the above-captioned matter.


Pamela Roderick

NASD Date of Decision: November 27, 1995

FORUM FEES

Pursuant to Section 43 of the Code of Arbitration Procedure, the following Forum Fees are assessed:

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ARBITRATION PANEL

Name

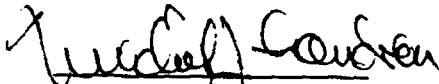


Michel Landron
Public Arbitrator - Chairperson

Pamela Roderick
Public Arbitrator

Walter A. Kannerineki
Industry Arbitrator

I, Michel Landron, do hereby affirm pursuant to Article 7507 of the Civil Procedure Law and Rules, that this is my decision in the above-captioned matter.


Michel Landron

Date of Decision: 11/13/95

NASD DATE OF DECISION: November 27, 1995