

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Investor Resource Services, Inc.

95-01129

Name of Respondents

Lew Lieberbaum & Company, Inc.
Mark I. Lew
Leonard A. Neuhaus

REPRESENTATION

For Claimant: John E. Lawlor, Esq., Mineola, NY.

For Respondents: Chase Caro, Esq. of the law firm of Caro & Graifman, P.C., New York, NY.

CASE INFORMATION

Statement of Claim filed: March 6, 1995.

Claimant's Submission Agreement signed on: February 1, 1995.

Reply to Counterclaim filed on: June 22, 1997.

Joint Statement of Answer, Counterclaim, Third-Party Claims and Motion to Dismiss filed by Respondents on: May 2, 1995.

Respondent Lew Lieberbaum & Company, Inc.'s ("Lieberbaum") Submission Agreement signed on: May 2, 1995.

Respondent Leonard A. Neuhaus' ("Neuhaus") Submission Agreement signed on: May 2, 1995.

Respondent Mark Lew ("Lew") did not sign a Submission Agreement.

HEARING INFORMATION

One pre-hearing conference was conducted with the Chairman on March 27, 1997 and three pre-hearing conferences were conducted with the arbitration panel on January 29, 1997 and April 4 and 9, 1997. In addition, eight hearing sessions were conducted on March 31, 1997, June 23, 24 and 25, 1997 in Tampa, Florida.

CASE SUMMARY

Claimant alleged that it placed an order to sell 100,000 shares of Royale Energy, Inc. ("Royale Energy") and that the order was executed at 3 3/8 in accordance with the instructions of the President of the corporate Claimant and the settlement date of this trade was January 3, 1995. Claimant further alleged that on December 28, 1994, the Claimant placed an order to buy 50,000 shares of XICOR, Inc., a stock in which Respondent Lieberbaum made a market, on a solicited basis, at \$2.29 per share.

Claimant further alleged that on or about January 12, 1995, Claimant was contacted by Respondent Neuhaus who informed Claimant that Neuhaus was canceling both the Royale Energy and XICOR transactions. Claimant alleged that these cancellations were made without cause or justification.

Based on the foregoing, Claimant alleged that Respondents Lieberbaum, Lew and Neuhaus breached express or implied contracts with Claimant in failing to exercise due diligence with respect to accounts under their control; in failing to have a reasonable basis for initiating transactions for Claimant's account; in failing to abide by industry standards of conduct, express and implied; breached fiduciary and contractual duties owed to Claimant; were grossly negligent and failed to use due care with respect to Claimant's account; traded Claimant's account without authority; and, they are liable for common law fraud.

Respondents maintained that this case involves the cancellation of one disputed transaction in which 100,000 shares of Royale Energy stock were transferred from Claimant Investor Resource Services, Inc. to Respondent Lew Lieberbaum & Co., Inc. and sold to Lieberbaum's customers, with 2/3 (or approximately \$222,978.00) of the \$337,489.00 proceeds being wired to Investor Resource Services, Inc., and 1/3 (or approximately \$114,511.00) of such proceeds being invested in XICOR, Inc. stock. Respondents maintained that because Lieberbaum became a market maker for purposes of this transaction, the above-referenced shares went into the account of Investor Resource Services, Inc. as follows:

Trade Date	Settlement Date			
12/23/94	1/3/95	Sold 100,000	Royale @ 3.375	\$337,489.00
12/28/94	1/5/95	Bought 50,000	XICOR @ 2.29	\$114,511.00
		Amount wired to Claimant		\$222,978.00

Respondents maintained that Lieberbaum had a good faith belief that the above-referenced transaction was motivated by improper payments to a broker who shortly thereafter resigned. Respondents next maintained that Lieberbaum canceled the above Royale Energy and XICOR trades in full and sold out the 100,000 Royale Energy shares over approximately a two week period to cover the wire after Claimant declined to return the wire and accept the Royale Energy shares back. Respondents further contended that due to manipulative practices, which Claimant concealed by such means as failing to disclose in appropriate filings the true extent of the holdings of Claimant's group in Royale Energy, Claimant would be legally barred from recovery in any event, and, further, that Claimant is alternatively barred from collecting damages by its failure to mitigate by accepting the stock back in exchange for returning the wire, which would have eliminated Claimant's loss. On the counterclaims, Lieberbaum sought to recover the time value it lost, measured by the amount of Lieberbaum's commission had the trade not been canceled, or \$21,000.00.

In response, the Claimants denied all allegations contained in the counterclaims.

RELIEF REQUESTED

Claimant requested damages in the sum of \$114,511.00 in addition to interest and attorneys' fees pursuant to Section 517.211 of the Florida Securities and Investor Protection Act plus punitive damages. In addition, the Claimant requested a dismissal of all counterclaims.

Respondents requested dismissal of all claims. Furthermore, the Respondents requested an award on their counterclaims in the sum of \$21,000.00 plus punitive damages.

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 original(s) remain on file with the NASD Regulation, Inc.

On March 27, 1997 counsel for the Respondents informed NASD Regulation, Inc. that they were withdrawing the third-party claims.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

The Respondent Lew Lieberbaum & Company, Inc. is liable and shall pay to the Claimant the sum of \$114,511.00, pre-judgment interest specifically excluded.

All claims against the Respondents Mark I. Lew and Leonard A. Neuhaus are dismissed in all respects.

The Claimant's request for punitive damages is denied.

The counterclaims asserted by the Respondents against the Claimant are dismissed in all respects.

The Respondents' request for punitive damages is denied.

Each party shall bear their respective costs including attorneys' fees.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, forum fees in the sum of \$8,550.00 (one pre-hearing conference Chairman-\$300.00 plus three pre-hearing conferences panel-\$2,250.00 plus eight hearing sessions-\$6,000.00) are assessed as follows:

1. The Claimant is assessed the sum of \$4,275.00 less the \$750.00 previously deposited in partial satisfaction thereof leaving a balance due in the sum of \$3,525.00.
2. In addition, the Claimant is assessed the sum of \$875.00 (\$375.00 plus \$500.00) representing one-half of the fees assessed for postponements of hearings scheduled for March 20, 21, and 22, 1996 and April 1, and 2, 1997, respectively.
3. The Respondent Lew Lieberbaum & Company, Inc. is assessed the sum of 4,275.00 less the \$1000.00 hearing session deposit and the \$1,125.00 overpayment in partial satisfaction thereof leaving a balance due in the sum of \$2,150.00.
4. NASD Regulation, Inc. shall retain the \$375.00 and \$500.00 previously paid by the Respondent Lew Lieberbaum & Co., Inc. representing one-half of the fees for the postponements of the March 20, 21, and 22, 1996 and April 1, and 2, 1997 hearing dates.

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

Name	Public/Industry
/S/ _____ James F. Turner, III	Public
/S/ _____ Walter E. Brittain	Public
/S/ _____ John W. Platt	Industry

Date of Decision: July 21, 1997