

NATIONAL ASSOCIATION OF SECURITIES DEALERS

-----  
In the Matter of the Arbitration Between :  
: Alan Kaplan : AWARD  
: Claimant : #88-03624  
vs. :  
: Shearson Lehman Hutton, Inc. :  
Philip O'Brien :  
Respondent :  
-----

Case Summary

Claimant alleged that Respondents recommended and engaged Claimant in the trading of index options which allegedly were unsuitable for him. Claimant further alleged that when he attempted to close out positions on naked puts in his margin account, he was unable to reach his broker and complete the transaction resulting in margin calls in his account. Respondents maintained that the Claimant was suitable for options trading, and he monitored his account closely. Respondents further maintained that the Claimant allegedly did not follow the advice of the Respondents when the risks of options trading were explained and deny that he was unable to effect any options transactions when contacting the Shearson Office.

Relief Requested

Claimant requested damages in an amount exceeding \$100,000.00. Respondents requested that the claim of the Claimant be dismissed and relief in the amount of \$28,812.00, plus interest, costs and attorneys fees.

Award

On November 8, 24, and December 4, 1989, and February 12, 1990 in Boston, Massachusetts, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant Alan Kaplan on December 13, 1988, by Respondent Shearson Lehman Hutton, Inc. on March 7, 1989 and by Respondent Philip O'Brien on March 7, 1990. The initial claim was filed on November 21, 1988.

The arbitrators, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of the Claimant Alan Kaplan against Respondent Shearson Lehman Hutton, Inc. be and hereby are dismissed in their entirety.
2. The claims of the Claimant Alan Kaplan against Respondent Philip O'Brien be and hereby are dismissed in their entirety.
3. The counterclaims of Respondents Shearson Lehman Hutton, Inc. and Philip O'Brien be and hereby are dismissed in their entirety.
4. The parties shall each bear their respective costs including attorney fees.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$750.00 filing fee previously deposited by the Claimant as costs of the eight (8) hearing sessions conducted in this matter. Forum fees made payable to the NASD, Inc. are hereby assessed against the Claimant Alan Kaplan in the amount of ~~\$3,000.00~~ and are also assessed against Respondent Shearson Lehman Hutton, Inc. in the amount of ~~\$3,000.00~~ pursuant to Section 43 of the Code of Arbitration Procedure.

CONCURRING ARBITRATORS

Julien F. Begien 4-5-90  
Julien F. Begien

Philip M. Giordano

James E. Fox

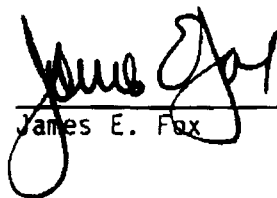
CONCURRING ARBITRATORS

---

Julien F. Begien

---

Philip M. Giordano



---

James E. Fox