

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Joan Smith, an individual, and
Joan Smith Trustee for the
Mary Duke Smith Trust

No. 89-03071

Name of Respondents

Shearson Lehman/American Express, Inc.

REPRESENTATION OF PARTIES

For Claimants: Seth Lipner, Esq. and Herbert Deutsch, Esq., of Deutsch & Lipner, Garden City, New York.

For Respondents: Thomas M. Knepper, Esq., of Neal Gerber & Eisenberg, Chicago, Illinois.

CASE INFORMATION

Statement of Claim and attachments filed on or about: November 3, 1989.

Claimants' Submission Agreement, with Trust Agreement, signed on: November 2, 1989.

Joint Statement of Answer with exhibits filed by Respondents, Shearson Lehman/American Express on or about: February 6, 1990.

Respondent Shearson Lehman Hutton, Inc.'s Submission Agreement signed on: January 30, 1990.

First Amended Statement of Claim filed on or about: March 19, 1990.

Letter from Respondent stating the matters in the original Answer as response to the Amended Complaint filed on or about: March 27, 1990.

Amended Statement of Claim with exhibits filed on or about: January 15, 1993.

HEARING INFORMATION

Pre-Hearing conferences held: July 20, 1993. One (1) session
July 30, 1993. One (1) session.

Hearing dates: August 2, 1993. Two (2) sessions.
August 3, 1993. Two (2) sessions.
August 4, 1993. Two (2) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimants, Joan Smith, an individual, and Joan Smith Trustee for the Mary Duke Smith Trust ("Claimant") alleged churning in that Mr. Mayer, a registered representative of Respondents Shearson Lehman/American Express ("Respondent"): Exercised control over Claimant's account in that Claimant relied on his decisions regarding the accounts; made representations designed to gain Claimant's confidence; and made excessive transactions in Claimant's accounts. The allegation arose out of transactions in stock options (calls, naked puts, and naked combinations) more fully covered at the hearing.

For its Answer, Respondent denied the allegations asserted above.

RELIEF REQUESTED

Claimant requested an award of compensatory damages in the amount of \$152,971.63 for Mrs. Smith's personal account, and an award of compensatory damages in the amount of \$31,299.13 on the Trust. Claimant also requested: Pre-award interest since the time of loss; punitive damages in the amount of \$1,000,000.00, reasonable attorneys' fees, and for the costs of this arbitration.

Respondent requested that the claim be dismissed.

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

1. Claimants, Joan Smith's, an individual, and Joan Smith's as Trustee for the Mary Duke Smith Trust claims are hereby denied and dismissed with prejudice.

OTHER COSTS

Each party shall bear their own costs and expenses of 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 following forum fees are assessed:

2 pre-hearing conference sessions X \$300.00 = \$600.00

6 hearing sessions X \$1,000.00 = \$6,000.00

Pursuant to Section 43(c) of the Code of Arbitration, the NASD shall retain the nonrefundable filing fee in the amount of \$250.00, and shall retain the hearing session deposit in the amount of \$500.00 previously paid to the NASD by the Claimant.

Additional forum fees in the amount of \$2,550.00 are assessed against the Claimants.

Additional forum fees in the amount of \$3,300.00 are assessed against the Respondent.

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

CONCURRING ARBITRATORS

Dated:

James S. Teborek
Presiding Chair
Public Arbitrator

Michael S. Matek
Public Arbitrator

August 16, 1993

Kelley R. Beach
Kelley Beach
Industry Arbitrator

Date of Service by the NASD: 8/20/93

Additional forum fees in the amount of \$2,550.00 are assessed against the Claimants.

Additional forum fees in the amount of \$3,300.00 are assessed against the Respondent.

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

CONCURRING ARBITRATORS

Dated:

July 12, 1993



James S. Teborek
Presiding Chair
Public Arbitrator

Michael S. Matek
Public Arbitrator

Kelley Beach
Industry Arbitrator

Date of Service by the NASD: _____

Additional forum fees in the amount of \$2,550.00 are assessed against the Claimants.

Additional forum fees in the amount of \$3,300.00 are assessed against the Respondent.

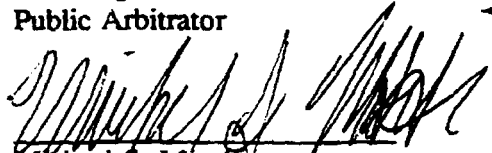
Fees are payable to the National Association of Securities Dealers, Inc.

CONCURRING ARBITRATORS

Dated:

8-19-93

James S. Teborek
Presiding Chair
Public Arbitrator



Michael S. Matek
Public Arbitrator

Kelley Beach
Industry Arbitrator

Date of Service by the NASD: _____