

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Robert T. Coyne

90-01279

Name of Respondent(s)

Shearson Lehman Hutton, Inc.
Donald McCarthy

Heard Before:

Simon Tager
Cornelius J. McAuliffe, Esq.
Roberta Duvarney

Public Arbitrator
Public Arbitrator
Industry Arbitrator

REPRESENTATION

For Claimant: Michael Collora, Esq. of Dwyer, Collora & Gertner in Boston, Massachusetts

For Respondent: Barry Weiner, Esq. of Shapiro, Israel & Weiner in Boston, Massachusetts

CASE INFORMATION

Statement of Claim filed: May 7, 1990

Claimant's Submission Agreement signed on: May 1, 1990

Statement of Answer filed by Respondents Shearson Lehman Hutton, Inc. and Donald McCarthy on: June 16, 1990

Respondent Shearson Lehman Hutton's Submission Agreement signed on: June 19, 1990

Respondent Donald McCarthy did not sign a Submission Agreement as required by Sections 12 and 25 of the Code of Arbitration Procedure.

HEARING INFORMATION

Hearing Dates/Sessions:

Telephonic Pre-Hearing Conferences - January 24, 1991
February 4, 1991
May 15, 1991

Hearings - May 29, 1991
May 30, 1991

Hearing Location: Boston, Massachusetts

CASE SUMMARY

Claimant alleged that Respondents provided false and misleading information to him regarding the purchase of 50,000 shares of the common stock Anchor Savings Bank between February 24, 1988 and March 31, 1988. Claimant alleged that Respondents represented to him that the Anchor Savings Bank stock was undervalued and would increase due to an impending takeover of the bank.

Respondents maintained that the Claimant was a knowledgeable investor who stated that his investment objectives were "appreciation with risk" and "speculative." Respondents further maintained that the recommendations made to the Claimant were based upon the information provided by Anchor Bank officers and directors and Respondents did not know that this information was inaccurate.

RELIEF REQUESTED

Claimant requested compensatory damages of \$96,562.50 plus interest, treble damages pursuant to Mass. G.L. c.93A, costs and attorneys fees. Respondents requested that the claims of the Claimant be dismissed and that they be awarded costs and attorneys fees.

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 all issues submitted for determination as follows:

- (1) The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award 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.

(2) Respondents Shearson Lehman Hutton, Inc. and Donald McCarthy are jointly and severally liable and shall pay to the Claimant Robert Coyne the sum of Seventy Two Thousand Four Hundred Twenty One Dollars and No Cents (\$72,421.00). No interest is awarded.

(3) The Claimant's claims for treble damages be and hereby is denied.

(4) The parties shall each bear their respective costs, including attorneys fees.

FORUM FEES

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

(1) The \$750.00 filing fee previously deposited by the Claimant shall be retained by the NASD, Inc. The Claimant Robert Coyne is assessed an additional \$1,875.00 in forum fees.

(2) Respondents Shearson Lehman Hutton, Inc. and Donald McCarthy are jointly and severally assessed \$2,625.00 in forum fees.

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

Concurring Arbitrators' Signatures



Cornelius J. McAuliffe, Esq.

Simon Tager

Dissenting Arbitrator's Signature

Roberta Duvarney

Date of Decision

7/1/91

DATED BY NASD July 18, 1991

90-1279

(2) Respondents Shearson Lehman Hutton, Inc. and Donald McCarthy are jointly and severally liable and shall pay to the Claimant Robert Coyne the sum of Seventy Two Thousand Four Hundred Twenty One Dollars and No Cents (\$72,421.00). No interest is awarded.

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Simon Tager
Simon Tager

Dissenting Arbitrator's Signature

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Date of Decision

July 2/91
DATED BY NASD July 18, 1991

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