

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

George & Bessie Gamas

90-01387

Name of Respondent(s)

Shearson Lehman Hutton, Inc.
Jack Spyridikas
Claire Boyles

Heard before:

Name

Public/Industry

Robert Volk, Esq.
Cornelius J. McMuliffe, Esq.
William J. Aziz

Public Arbitrator
Public Arbitrator
Industry Arbitrator

REPRESENTATION

Claimants were represented by Leslie Nixon, Esq. of the law firm of Nixon, Hall & Hess of Manchester, New Hampshire. Respondents were represented by R. Scott Henderson, Esq. of the law firm of Bingham, Dana & Gould in Boston, Massachusetts.

CASE SUMMARY

This matter was initiated by a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on May 15, 1990. Claimants George and Bessie Gamas alleged that, with conservative investment objectives, limited financial resources, and lack of financial sophistication, Respondents pursued a course of stock market speculation trading common stocks such as American Motors, Seacoast Savings, Digital Equipment Corporation, and Chips and Technologies in the Claimants' account, creating losses. Claimants further alleged that Respondents opened a margin account without a specific margin agreement disclosing the risks of trading on margin to the Claimants and also placed the Claimants in options trading. Respondents maintained that the Claimants were sophisticated investors who controlled the speculative trading in their accounts and approved and ratified all trades. Respondents further maintained that the Claimants failed to follow the recommendations of their broker and failed to mitigate their damages.

RELIEF REQUESTED

Claimants requested damages of \$104,698.06. Respondents requested that the claims of the Claimants be dismissed and that Respondents be awarded their costs and disbursements including attorneys fees.

AWARD

On April 3, 1991 in a telephonic pre-hearing conference and on April 17, 1991, June 13, 1991 and June 14, 1991 in Boston, Massachusetts during a hearing lasting seven (7) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimants George and Bessie Gamas on May 25, 1990, by Respondent Shearson Lehman Hutton, Inc. on August 9, 1990, by Respondent Jack Spyridikas on August 16, 1990 and by Respondent Claire Boyles on August 15, 1990.

After considering the pleadings, the testimony, and the evidence presented at the hearing, the 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) The claims of the Claimants George and Bessie Gamas against Respondents Shearson Lehman Hutton, Inc., Jack Spyridikas, and Claire Boyles be and hereby are dismissed in their entirety.
- (3) 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 NASD shall refund the \$750.00 filing fee previously deposited by the Claimants.
- (2) The arbitrators assess the Respondents jointly and severally the sum of \$5,250.00 in forum fees.

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

Concurring Arbitrator(s) Signature

/s/
Robert Volk, Esq.
(chairperson)

/s/
Cornelius J. McAuliffe, Esq.

/s/
William J. Aziz

Date of Decision: July 29, 1991