

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

George E. Spencer, Jr.

90-02323

Name of Respondents

Financial Clearing & Services, Inc.
Maurice Joseph Lyons

REPRESENTATION

For Claimant: Clinton R. Black, IV, Esq. of the law firm of Moore, Libowitz & Thomas.

For Respondents: Financial Clearing & Services, Inc. was represented by David A. Goldman Esq. of the law Firm of Wexler & Burkhart, P.C.

Maurice Lyons appeared pro se.

CASE INFORMATION

Statement of Claim filed: August 21, 1990. Answer of Claimant to Counter-Claim filed: March 11, 1991. Response to Maurice Joseph Lyons Motion to Dismiss filed on July 22, 1991.

Claimant's Submission Agreement signed on: August 9, 1990.

Statement of Answer filed by Respondent Financial Clearing & Services, Inc. February 19, 1991.

Respondent Financial Clearing & Services, Inc.'s Submission Agreement signed on: February 19, 1991.

Statement of Answer filed by Respondent Maurice Joseph Lyons, Motion to Dismiss filed by Respondent Maurice Joseph Lyons on July 12, 1991.

Respondent Maurice Joseph Lyons's Submission Agreement signed on: February 19, 1991.

HEARING INFORMATION

Hearing Date and Hearing Sessions: August 20, 1991, 2 Sessions.

Hearing Location: The Offices of Moore, Libowitz & Thomas, Esqs.
Baltimore, Maryland.

CASE SUMMARY

Claimant alleged that Respondent Maurice Joseph Lyons made unauthorized purchases of stock in his account; made untrue statements and misrepresentations to the Claimant which Claimant relied on to his detriment knowing they were untrue when said; breached the fiduciary duty owed to the Claimant and recommended securities to the Claimant which were unsuitable for him.

Respondent Maurice Joseph Lyons maintained he obtained information concerning Claimant's suitability for the recommendations he was making and all recommendations were suitable for the Claimant. Respondent Maurice Joseph Lyons further maintained Claimant had experience with the stock market and was aware of the risks associated in investing in the stock market. Respondent Maurice Joseph Lyons further maintained he followed all of Claimant's instructions, all trades in Claimant's account were authorized and he never misled Claimant into purchasing stocks under the premise of any time or price predictions and he never performed any high pressure sales tactics. Respondent Maurice Joseph Lyons further maintained he did not breach the fiduciary duty owed to Claimant and he conducted himself according to the rules and regulations of the Securities Exchange Commission and the National Association of Securities Dealers, Inc.

Respondent Maurice Joseph Lyons submitted a Motion to Dismiss alleging that he never executed any unauthorized trades, and any transactions done for the Claimant were done with his investment needs and suitability requirements in mind and he conducted himself in a professional manner and adhered to the laws set by the securities industry and any damages caused to Claimant are the responsibility of J.T. Moran. In response to Respondent's Motion to Dismiss the Claimant maintained there are genuine disputes as to the material facts of the conduct, experience and investment objectives of the Claimant; therefore, the motion should be denied.

RELIEF REQUESTED

Claimant requested compensatory damages of \$123,716.83, punitive damages in the sum of \$100,000.00 plus prejudgment and post judgment interest at the legal rate and attorneys fees and costs incurred in pursuing recovery. Respondent Maurice Joseph Lyons requested dismissal of all claims against him.

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. Prior to the commencement of the first hearing session the arbitration panel was informed that the Claimant's complaint against Financial Clearing & Services, Inc. and the Counter-Claim filed by Financial Clearing & Services, Inc. against Claimant had been settled.
2. Prior to the commencement of the first hearing session the arbitration panel was informed that the Respondent Financial Clearing & Services, Inc. had withdrawn its cross-claim against Respondent Maurice Joseph Lyons.
3. Prior to the commencement of the first hearing session, the arbitration panel ruled that the Respondent Maurice Joseph Lyons' Motion to Dismiss be denied.
4. The Respondent Maurice Joseph Lyons be and hereby is liable and shall pay to the Claimant the sum of \$25,000.00 plus simple interest at 10% per annum from the date of decision until the date of payment of the award.
5. Each party shall pay their respective costs, including attorneys' fees.

FORUM FEES

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

2 Sessions X \$750.00 = \$1,500.00 minus hearing session deposit of \$750.00 = net \$750.00

The Respondent Maurice Joseph Lyons be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$750.00 to represent forum fees. The National Association of Securities Dealers, Inc. shall retain the \$200.00 claim filing fee previously deposited by the Claimant.

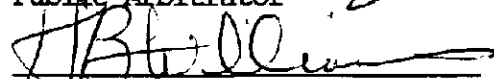
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Fees are payable to the National Association of Securities Dealers, Inc.


ARBITRATORS SIGNATURE



Edgar T. Bellinger, Esq.
Public Arbitrator



H. B. Williams
Public Arbitrator



Norbert L. Grunwald
Industry Arbitrator

Signed by Arbitrators
on: Aug 20, 1991

Date of Decision: September 17, 1991.