

N.A.S.D. AWARD

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration BetweenName of Claimant

Regina M. Lyons Testamentary Trust

vs

90-02477

Name of Respondents

Shearson Lehman Hutton, Inc.
Edward Boznanski

REPRESENTATION

For Claimant: Paul Chernis, Esq. of Silverman, Collura & Chernis, P.C.

For Respondent: Harry T. Walter, Esq.

CASE INFORMATION

Statement of Claim filed: September 06, 1990.

Claimant's Submission Agreement signed on: August 16, 1990.

Joint Statement of Answer filed by Respondents on: September 05, 1990.

Respondents, Shearson Lehman Hutton, Inc. and Edward Boznanski, did not execute Submission Agreements.

HEARING INFORMATION

Hearing Dates: May 23, 1991; May 24, 1991; July 1, 1991; July 2, 1991; and July 22, 1991.

Hearing Sessions: 2 Sessions; 1 Session; 2 Sessions; 2 Sessions; and 2 Sessions.

Hearing Location: New York, New York.

CASE SUMMARY

Claimant, Barbara Matey, Trustee of Regina M. Lyons Testamentary Trust, alleges that a trust account was established and that Claimant entrusted to Respondent, Edward Boznanski, \$363,844.00 in cash and securities to manage in order to provide to three handicapped adults \$250.00 each during their

lifetime. The investment objectives were to provide income and moderate growth and long term growth. Claimant further contends that Boznanski mishandled the account by advising the trustee to open a margin account which was in disregard to the Trust's interests, its purpose and its modest investment needs and which resulted in nearly \$181,000 in losses between March 1987 and March 1989. Claimant further alleges that Boznanski: made unsuitable recommendations; churned the account; made unauthorized margin purchases and unauthorized trades by failing to follow instructions; improperly exercised discretion; that Shearson failed to supervise Boznanski; and, that Respondents breached their fiduciary duties to Claimant. Claimant also contends that Respondents acts constituted a violation of the National Association of Securities Dealers, Inc. and New York Stock Exchange rules and federal securities laws.

Respondents deny the allegations wrongdoing and deny liability. Respondents also assert nine affirmative defenses. Respondents further contend that he discussed past and proposed investments along with the performance of the account and disclosed the risks and rewards of trading on margin with the Trustee.

RELIEF REQUESTED

Claimant requests an award jointly and severally against Respondents in the amount of \$275,000.00 including estimated pre-award interest, punitive damages of \$1,000,000.00, estimated costs and fees incurred by Claimant in the amount of \$75,000.

Respondents request that the claim be dismissed.

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:

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.

1. Respondents, Shearson Lehman Hutton, Inc. and Edward Boznanski, are hereby jointly and severally liable to the Claimant in the amount of Seventy Thousand Five Hundred and Twenty One Dollars and Zero Cent (\$70,521.00);
2. It is ordered that Claimant transfer the PIP Limited Partnership to Shearson Lehman Hutton, Inc.;
3. The claim for punitive damages is denied.

FORUM FEES

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

1. Claimant has deposited and the NASD shall retain \$250.00 non-refundable filing fees;
2. Claimant has deposited and the NASD shall retain \$1,000.00 hearing session deposit;
3. Forum fees for nine (9) hearing sessions at \$1,000.00 per session are assessed and shall be borne equally by the parties;
4. Claimant is assessed a non-refundable filing fee of \$250.00;
5. Claimant is further assessed \$1,000.00 for postponement of the hearing which was scheduled but not held on April 23rd and 24th, 1991;
6. Claimant is assessed \$4,500.00 in forum fees;
7. Therefore, the net amount due the NASD by Claimant is \$4,500.00;
8. Respondent, Shearson Lehman Hutton, Inc., is assessed \$4,500.00 in forum fees;

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

ARBITRATION PANEL

Allen Kilik, Esq.

Leo Cooperman

Robert A. Foy, Esq.

Chairperson - Public

Public

Industry

Concurring Arbitrator's Signature

Allen Kilik
Allen Kilik

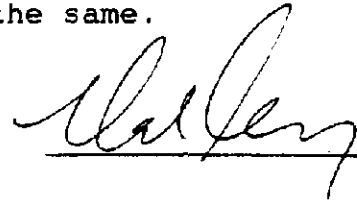
Date of Decision: 7

Dated by the NASD: August 2, 1991

STATE OF NEW YORK
COUNTY OF NEW YORK

S.S.:

On this 30th of July, 1991, before me personally appeared Allen Kilik, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



VALERIE J. BAILEY
Notary Public, State of New York
No. 240740303
Qualified in Kings County
Term Expires July 18, 1992

FORUM FEES

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ARBITRATION PANEL

Allen Kilik, Esq.

Chairperson - Public

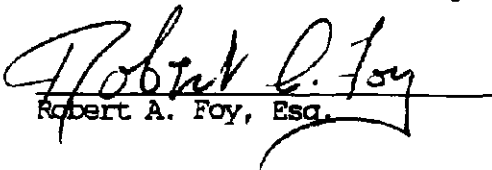
Leo Cooperman

Public

Robert A. Foy, Esq.

Industry

Concurring Arbitrator's Signature


Robert A. Foy, Esq.

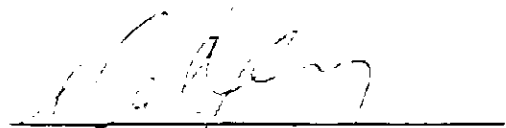
Date of Decision: _____

Dated by the NASD: August 2, 1991

STATE OF NEW YORK
COUNTY OF NEW YORK

s.s.:

On this ^{fourth} 18th of July, 1991, before me personally appeared Robert A. Foy, Esq. known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



VALERIE I. BAILEY
NOTARY PUBLIC, State of New York
No. 22-4940303
Qualified in Kings County
Commission expires July 18, 1992

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ARBITRATION PANEL

Allen Kilik, Esq.

Chairperson - Public

Leo Cooperman

Public

Robert A. Foy, Esq.

Industry

Concurring Arbitrator's Signature


Leo Cooperman

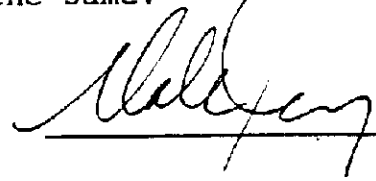
Date of Decision: 7/24/91

Dated by NASD: August 2, 1991

STATE OF NEW YORK
COUNTY OF NEW YORK

s.s.:

On this *31st* of July, 1991, before me personally appeared Leo Cooperman known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



VALERIE I. BAILEY
NOTARY PUBLIC, State of New York
No. 24-1940303
Qualified in Kings County
Commission expires July 18, 1992 *2*