

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

Epilepsy Foundation of Western New York

91-00273

Name of Respondents

Shearson Lehman Brothers, Inc.
Sheldon T. Lenahan

REPRESENTATION

For Claimant Epilepsy Foundation of Western New York ("Claimant"): Donald T. Cook, of Birmingham, Cook et al.

For Respondents Shearson Lehman Brothers, Inc. ("Shearson") and Sheldon T. Lenahan ("Lenahan"): Jeffrey A. Sellers, of Silverberg, Yood et al.

CASE INFORMATION

Statement of Claim filed: January 16, 1991.

Claimant's Submission Agreement signed on: January 21, 1991.

Joint Statement of Answer filed by Respondents on: July 17, 1991.

Respondent Shearson's Submission Agreement signed on: August 13, 1991.

Respondent Lenahan's Submission Agreement signed on: July 25, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: June 9, 1992/2 sessions
June 30, 1992/2 sessions
July 8, 1992/2 sessions

Hearing Location: Buffalo, New York

CASE SUMMARY

Claimant alleged on or about June 9, 1982 Claimant opened an account with Shearson through Lenahan and on or about October 18, 1983, Claimant opened an additional account with Shearson through Lenahan and Claimant entered into written agreements with Shearson and/or Lenahan concerning the maintenance of the accounts. Claimant alleged that as part of Shearson's ordinary dealing it/or Lenahan required Claimant to execute a boilerplate agreement acknowledging the adoption of certain corporate resolutions drafted by Shearson, in pertinent part, empowering Lenahan to deal directly with

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Shearson concerning all transactions in these accounts. Claimant alleged it purchased Shearson Option Income Fund ("SOIF"), Shearson Aggressive Growth Fund ("SAGF"), and Danson Institutional Oil and Gas Income Fund ("Danson") through Lenahan. Claimant alleged these investments were unsuitable for it; were made in violation of the terms and conditions of the account agreement; were made in violation of Lenahan's fiduciary obligations and were negligently made by Lenahan. Claimant alleged Shearson violated its obligations to Claimant and its obligation to supervise Lenahan and Claimant's investments.

Respondents alleged that at all times they discharged their obligations and duties in a proper manner; all investments were based upon objectives as conveyed to Respondents by Claimant and were suitable for Claimant; Lenahan did not violate any fiduciary obligations; and Shearson properly supervised Lenahan.

RELIEF REQUESTED

Claimant requested: actual damages in the amount of \$50,669.09, plus nine(9%) percent statutory interest; and punitive damages in the amount of \$50,000.00; costs and a refund of the arbitration fee.

Respondents requested: Claimant's claim be dismissed in toto; the appropriate portions be barred by the applicable Statute of Limitations; costs and disbursements.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in 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 originals remain on file with the NASD.

Pursuant to Section 30(b) of the Code of Arbitration Procedure, the \$750.00 adjournment fee assessed against Claimants was waived by this panel of arbitrators.

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- Respondents are liable, jointly and severally, in the amount of \$34,500.00;

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- 2- All other claims are dismissed;
- 3- Respondents' Motion to Dismiss based upon the Statute of Limitations is denied;
- 4- Each party shall bear its own costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$200.00 non-refundable filing fee and the following Forum Fees are assessed.

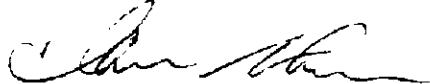
6 sessions X \$750.00 = \$4,500.00 minus hearing session deposit of \$750.00 = net \$3,750.00 due.

Forum fees Assessed Against:

- 1- Respondents, jointly and severally, in the amount of \$3,750.00. Respondents, jointly and severally, shall also reimburse Claimant, the amount of \$750.00 to represent the hearing session deposit previously deposited by Claimant.

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

Concurring Arbitrator Signature



Charles B. Border/Industry Arbitrator

Date of Decision: September 10, 1992

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Vincent J. Muffoletto, Public Arbitrator

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Concurring Arbitrator Signature


Robert Gleichman/Public Arbitrator

Date of Decision: September 10, 1992