



N A S D AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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

In the Matter of the Arbitration Between

Name of Claimant(s)

W. Ray & R. Allen Lyles

91-01049

Name of Respondent(s)

Shearson Lehman Hutton, Inc.

REPRESENTATION

For Claimant: Gilbert T. Davis, Esq., of Davis and Brewer.

For Respondent: Corydre Hornbaum, Esq. of Kennedy Covington Lobdell & Hickman.

CASE INFORMATION

Statement of Claim filed: April 4, 1991.

Claimants' Submission Agreements signed on: March 25, 1991-by W. Ray Lyles.
April 22, 1991-by R. Allen Lyles.

Respondent, Shearson Lehman Hutton, Inc.'s Statement of Answer dated: June 20, 1991.

HEARING INFORMATION

Hearing Date: September 19, 1991-Two (2) sessions

Hearing Location: Charlotte, NC

CASE SUMMARY

Claimants alleged that their claim arose out of transactions in their account with Respondent, Shearson Lehman Brothers, Inc. ("Shearson"). Claimants stated that on January 18, 1991 Richard Rogers ("Rogers") an employee of Respondent, Shearson, sold OEX February Options for a net value of \$3,475.95 and that on February 11, 1991 Rogers bought the same options for \$27,157.72. Claimants further alleged that Rogers had been instructed in prior dealings to use a simple rule which avoided losses beyond a limited

AWARD-#91-01049

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

amount and required the repurchase of the options if the index was running against the customer at the same value as the sale. Claimants stated that Rogers did not comply with this rule and as a result Claimants suffered a loss of \$20,205.82. Claimants contended that Respondent's actions constituted a breach of fiduciary duty toward Claimants.

Respondent, Shearson Lehman Brothers, Inc., maintained that the purchase of the OEX options were suitable for Claimants and that at all times in question Rogers kept Claimants fully informed of the status of the investment and followed Claimants' instructions. Respondent further maintained that on several occasions Claimants instructed Rogers to hold or sell contracts in a manner contrary to the formula described in Claimant's Claim and that on February 11, 1991 when Lyles did give Rogers an instruction concerning the investment Rogers followed that instruction.

RELIEF REQUESTED

Claimants requested an award in the amount of \$20,205.82, attorneys' fees and filing costs.

Respondent requested dismissal of the claim and that costs be taxed against Claimants.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has 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 original remains on file with the NASD.

1. Respondent, Shearson Lehman Brothers, Inc. shall pay to Claimants, W. Ray Lyles and R. Allen Lyles, the sum of Eight Thousand One Hundred Thirty Five Dollars and No Cents (\$8,135.00);
2. All other claims are dismissed;
3. The parties shall each bear their respective costs, including attorneys' fees;

AWARD-#91-01049

FORUM FEES

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

2 Sessions X \$300.00 = \$600.00

Forum fees assessed against:

1- Claimants in the amount of \$300.00; however, Claimant may use its \$300.00 hearing session deposit to offset this fee, thereby, Claimants owe no forum fees;

2- Respondent, in the amount of \$300.00.

The NASD, Inc. shall retain the \$100.00 non-refundable filing fee previously deposited by Claimants.

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

ARBITRATOR

Concurring Arbitrator's Signature

/s/

Clifton B. Vann, III
Sole Public Arbitrator

Date of Decision: OCTOBER 15, 1991