

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Herman Lee

91-01566

Name of Respondents

Shearson Lehman Hutton, Inc.
Richard Kadry
Ivan Hovey

REPRESENTATION

For Claimant: James Bruce Pearson of Fargo, North Dakota.

For Respondents: Harry Walters, Esq. and Christina Tracey, Esq. of Shearson
Lehman Brothers, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed: May 16, 1991.

Claimant's Submission Agreement signed on: May 9, 1991.

Joint Statement of Answer filed by Respondents on: August 23, 1991.

Respondent Shearson Lehman Brothers, Inc.'s Submission Agreement signed on
August 22, 1991. Respondent Ivan Hovey's Submission Agreement signed on
August 15, 1991.

HEARING INFORMATION

Pre-Hearing Conference: December 17, 1991 for one (1) session with
Chairperson.

Hearing Dates/Sessions: December 17, 1991 for one (1) session;
August 4, 1992 for two (2) sessions;
August 5, 1992 for two (2) sessions;
August 6, 1992 for two (2) sessions.

Hearing Location: Minneapolis, Minnesota.

CASE SUMMARY

Claimant Herman Lee ("Lee") alleged that Respondent Shearson Lehman Brothers, Inc. ("Shearson") through its representatives, Respondents Richard Kadry ("Kadry") and Ivan Hovey ("Hovey") misrepresented, manipulated, conspired, coerced, churned, and took advantage of Lee's account for their own personal gain by generating enormous commissions in Lee's commodities accounts. Lee further alleged that Kadry misrepresented his performance record as a commodity consultant, that Shearson, Kadry, and Hovey engaged in unauthorized trading in Lee's account, that Lee's account was abused and not monitored, that Lee's account was sustaining staggering losses and enormous commissions and margin interest was eroding Lee's account.

Respondents Shearson, Kadry, and Hovey (hereinafter "Respondents") categorically denied the allegations that Kadry and Hovey misrepresented Kadry's experience and engaged in excessive, unauthorized and unsuitable trading. Respondents alleged that Lee's commodity account was a non-discretionary account over which Lee exercised complete control. Respondents further alleged that Lee himself chose the commodities he would trade.

RELIEF REQUESTED

Claimant requested: damages in the sum of \$4,180,171.00 based on the following calculation: \$19,301.00 for 1989 Commodity losses, \$1,204,139.00 for 1990 Commodity losses, \$127,380.00 for margin interest, \$25,104.00 for visible stock commission, \$2,100,000.00 for loss stock opportunity, and \$704,247.00 for tax liability.

Respondents requested that the Statement of Claim be dismissed in its entirety and that costs of this matter be assessed against Claimant.

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.

Respondent Richard Kadry did not properly file a submission agreement with the NASD, but having answered the claim, appeared and testified at the hearing, is bound by the conclusions of the panel on all issues submitted for determination pursuant to Section 12 of the Code of Arbitration Procedure.

The counsel for Respondents asserted a Motion To Dismiss the Statement of Claim at the close of Claimant's case. The Panel denied the motion.

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. The Claimant's Statement of Claim is denied in its entirety;

2. Each of the parties shall bear their own costs and expenses incurred, other than those specifically enumerated for herein.

FORUM FEE

PURSUANT to Section 43a of the Code of Arbitration Procedure, the following Forum Fees are assessed:

7 sessions X \$1000 = \$7000 minus hearing session deposit of \$1000 = \$6000 plus \$300 for the Pre-hearing conference session = net \$6300 due.

Forum fees Assessed Against Claimant Herman Lee in the amount of \$6300.

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

By The Arbitration Panel:

Dated:

Alan M. Anderson, Esq. Chairman
Public Arbitrator

D. Randall Rich, Esq.
Public Arbitrator

Philip B. Boote
Philip B. Boote
Industry Arbitrator

8-30-92

Date Award Served By The NASD

Sept 1, 1992

2. Each of the parties shall bear their own costs and expenses incurred, other than those specifically enumerated for herein.

FORUM FEES

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

7 sessions X \$1000 = \$7000 minus hearing session deposit of \$1000 =
\$6000 plus \$300 for the Pre-hearing conference session = net \$6300 due.

Forum fees Assessed Against Claimant Herman Lee in the amount of \$6300.

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

By The Arbitration Panel:

Dated:

Alan M. Anderson
Alan M. Anderson, Esq. Chairperson
Public Arbitrator

8/20/92

D. Randall Bloom, Esq.
D. Randall Bloom, Esq.
Public Arbitrator

Emily B. Boots
Emily B. Boots
Industry Arbitrator

Date Award Served By The NASD:

Sept 1, 1992

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By The Arbitration Panel:

Dated:

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Public Arbitrator

D. Randall Blohm
D. Randall Blohm, Esq.
Public Arbitrator

Emily B. Boote
Industry Arbitrator

Date Award Served By The NASD:

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