



N.A.S.D. AWARD

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

Burns M. Gregg

91-01987

Name of Respondent(s)

Shearson Lehman Brothers, Inc.
Robert F. Sanders

REPRESENTATION

For Claimant: John P. Connolly, Esq.

For Respondent: Michael Solinsky, Esq. & Charlie R. Mills, Esq. of the
law firm of Lord Day & Lord, Barrett Smith.CASE INFORMATION

Statement of Claim filed: June 27, 1991.

Memorandum of Claimant Regarding Section 15 of the NASD Code of Arbitration
filed: September 23, 1991.

Claimant's Submission Agreement signed on: June 18, 1991.

Joint Statement of Answer filed by Respondents Shearson Lehman Brothers, Inc.
and Robert F. Sanders on: August 16, 1991.Respondent Shearson Lehman Brothers, Inc.'s Submission Agreement signed on:
July 29, 1991.Respondent Robert F. Sanders's Submission Agreement signed on: August 13,
1991.HEARING INFORMATION

Hearing Dates/Sessions: May 13, 1992, 3 Sessions
May 12, 1992, 2 Sessions
May 11, 1992, 2 Sessions
April 22, 1992, 2 Sessions

Pre-Hearing Conference: February 25, 1992
January 29, 1992

Hearing Location: Offices of the NASD located in Washington, D.C.

CASE SUMMARY

Claimant alleged that he opened an IRA account and a number of other securities accounts with the Respondents, and Respondents exercised de facto control over Claimant's accounts and investments and Respondents breached the fiduciary duty owed the Claimant and engaged in soliciting and recommending the purchase and sale of numerous unsuitable investments including limited partnerships to Claimant and engaged in heavy trading, the only apparent purpose of which was the generation of commissions. Claimant further alleged Respondents failed to follow his instructions; made misrepresentations to Claimant concerning his investments and fraudulent omissions of material facts; Respondents were grossly negligent and acted with reckless disregard for the truth; Respondents failed to properly supervise the activity of the account and Respondents' acts were performed with a conscious disregard for the rights of Claimant and with direct intent to defraud Claimant so as to justify the awarding of punitive and exemplary damages.

Respondents maintained Claimant is an intelligent and experienced investor who took an active role in each investment decision in his account and all purchases and sales of investments, except those initiated by duly appointed portfolio managers were specifically approved by Claimant prior to execution and Claimant kept track of the status of his investments and kept his own journal of his securities transactions and each month received documentation detailing the transactions in his accounts. Respondents further maintained Claimant's claims should be dismissed as the case is Claimant's untimely attempt to recover losses he incurred in securities transactions he authorized years ago and many of the transactions occurred over 6 years ago and, therefore, pursuant to Section 15 of the Code of Arbitration Procedure, are now barred and further alleged the claims on virtually every transaction are also barred by the applicable statutes of limitations. Respondents further maintained that punitive damages are not available in arbitration; Respondents did not misrepresent or omit any material facts in describing investments to Claimant and Respondents properly exercised their respective duties and did at all times act in good faith toward Claimant and did not breach any fiduciary duty owed to Claimant.

In response to Respondents' request that the claim be dismissed under Section 15 of the Code or as time barred, Claimant maintained the evidence will demonstrate that all securities transactions for which Claimant seeks damages are within the applicable limitations period and should not be dismissed and further maintained under the facts of this case as the evidence will demonstrate at the hearing and the legal standards for tolling, all of Claimant's claims are within the six-year statute of limitations of Section 15 of the NASD Code of Arbitration Procedure.

RELIEF REQUESTED

Claimant requested damages of approximately \$145,000.00 in compensatory and investment opportunity loss, that interest be assessed from the date of the activities complained of up to the time of payment of the award; costs, NASD fees and attorneys' fees incurred by Claimant in order to prosecute the action; punitive damages in the sum of \$250,000.00 and such other and further relief to which Claimant may be justly entitled as determined by the arbitration panel.

Respondents requested dismissal of Claimant's Statement of Claim and an award of its costs and attorneys fees incurred in defending the arbitration.

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. All claims by the Claimant against Respondents Shearson Lehman Brothers, Inc. and Robert F. Sanders be and hereby are dismissed in all respects. The panel considered Respondents' Statute of Limitations arguments but determined that they were rendered moot as the dismissal of Claimant's claims is on the merits.
2. The Claimant be and hereby is liable and shall pay to the NASD the sum of \$1,500.00 as the cost of two adjournement granted in this matter.
3. Each party shall bear their respective costs including attorneys' fees.

FORUM FEES

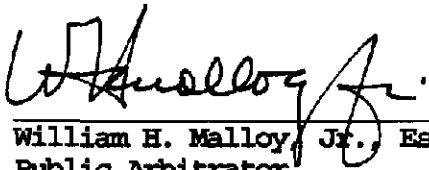
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

9 session X \$750.00 = \$6,750.00 plus 2 pre-hearing conferences(\$300
X 2 = \$600.00) = \$7,350.00 minus hearing session deposit of \$750.00
= net \$6,600.00 due.

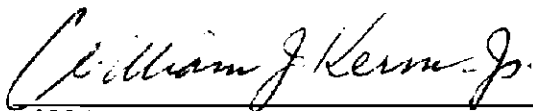
The Claimant be and hereby is liable and shall pay to the NASD the sum of \$6,600.00 to represent forum fees.

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

ARBITRATOR SIGNATURES



William H. Malloy, Jr., Esq.
Public Arbitrator



William J. Kerns, Jr.
Industry Arbitrator



David Freund
Public Arbitrator

Date of Decision: June 22, 1992