

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :  
William A. Youpel :  
Claimant :  
vs. : CASE #91-02089  
Shearson Lehman Brothers, Inc. : AWARD  
Harry Gaykian :  
Respondents :

## CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on July 5, 1991, Claimant William A. Youpel, who appeared Pro Se, alleged that Respondent Shearson Lehman Brothers, Inc. and their registered representative Harry Gaykian misrepresented to the Claimant that only the interest on his principal would be at risk; and that Respondent initiated transactions in S&P 100 Index Oct. 290 CBOE Puts with disregard for the Claimant's instructions and investment goals.

Respondents, Shearson Lehman Brothers, Inc. & Harry Gaykian through their in-house counsel Robert L. Gonser, Esq., maintained that the Claimant had been trading in these types of investments since 1983 and that these investments were suitable according to the Claimants' investment objectives. Respondents further maintained that the Claimant has made an overall profit when considering all his investments and that although the Claimant believes the trades were not in accordance with his investment goals, he signed a discretionary authorization form which granted Respondent Harry Gaykian authority to make investment decisions for the Claimant.

Respondents Shearson Lehman Brothers, Inc. and Harry Gaykian filed a motion to compel discovery on October 18, 1991. Claimant William A. Youpel did not file a reply to the Respondent's motion.

RELIEF REQUESTED

Claimant, William A. Youpel requested \$10,000.00 in actual damages.

Respondents, Shearson Lehman Brothers, Inc. and Harry Gaykian requested the claims of the Claimant be dismissed and that they be awarded costs.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Thomas C. McNally, III, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on June 25, 1991 and by the Respondent Shearson Lehman Brothers, Inc. on August 7, 1991 and by Respondent Harry Gaykian on August 28, 1991.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The Respondents, Shearson Lehman Brothers, Inc. and Harry Gaykian's motion to compel discovery is denied.
2. The claims of the Claimant William A. Youpel against Respondent Shearson Lehman Brothers, Inc. and Harry Gaykian are dismissed.
3. The parties shall bear their respective costs.
4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **THOMAS C. McNALLY, III**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

  
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Signature of Arbitrator

DATE OF DECISION: January 29, 1992