

N.A.S.D. AWARD**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

Name of Claimant(s)

Seymour Cohen

91-02497

Name of Respondent(s)

A.G. Edwards & Sons, Inc.
Douglas Bremen & Co.
Blaine Andrews & Co.
Jeffrey Loper
Michael French

REPRESENTATION

For Claimant, Seymour Cohen ("Cohen"): Russell L. Forkey, Esq.

For Respondents, A. G. Edwards & Sons, Inc. ("Edwards"), Michael French ("French") and Jeffrey Loper ("Loper"): Clay L. Grumke, Esq. of A. G. Edwards.

For Respondent, Douglas Bremen & Co. ("Bremen"): Ada D. Fillippo of Bremen.

For Respondent, Blaine Andrews & Co. ("Andrews"): Guy Crawford of Andrews.

CASE INFORMATION

Statement of Claim filed: August 13, 1991. Claimant's Submission Agreement signed: August 6, 1991.

Respondents', Edward, French and Loper's, Statement of Answer filed: October 4, 1991. Respondents' Submission Agreement signed by Loper on September 23, 1991, by French on September 30, 1991, and by Stephen G. Sneeringer, on behalf of Edwards on October 4,

1991. Respondents, Bremen and Andrews, did not file Statements of Answer or sign Submission Agreements as required by Sections 12 and 25 of the Code. (see "Other Issues")

HEARING INFORMATION

On July 12, 1993 in Fort Lauderdale, Florida, a hearing lasting one (1) session was conducted, after a postponement of the hearing dates set for December 8, 9 and 10, 1992.

CASE SUMMARY

Claimant alleged that Respondents were liable for fraud and deceit, negligence, breach of fiduciary duty, breach of contract, and negligent supervision, and regarding Bremen and Loper, violation of Section 517.12, Florida Statutes. Claimant further alleged that Loper moved from Andrews to Bremen to Edwards; that Respondents, through Loper, made misrepresentations of and omitted to state material facts, recommended and effected trades in unsuitable options, bonds, and equity securities; and, traded Mr. Cohen's account recklessly and excessively on a discretionary basis.

Respondents, Edwards, French and Loper, denied all allegations of wrongdoing for the period the account was at Edwards and alleged that the trades were suitable based upon the information provided by the Claimant; that Claimant failed to timely complain; that the claims are barred by ratification, account stated, estoppel, waiver and laches; that Claimant failed to use due diligence to mitigate his damages; that Claimant is barred by his contributory negligence; that Claimant was aware of and assumed the risks; that any damages were caused by market conditions; and, that Claimant failed to state a claim for which relief can be granted.

RELIEF REQUESTED

Claimant requested damages of \$48,241.24 from Andrews and Loper; \$22,693.30 from Bremen and Loper; \$17,632.71 from Edwards, French and Loper; and, interest, costs and punitive damages of \$100,000.00 from all Respondents.

Respondents requested dismissal and costs.

OTHER ISSUES CONSIDERED & DECIDED

1. Prior to the hearing in this matter, the Claimant notified the NASD that Respondents, Edwards, Loper and French, had all reached settlements with the Claimant and, therefore, the Claimant was not proceeding against these Respondents.

2. Based upon the record evidence contained in the NASD file, the Panel finds adequate service upon and notice to Respondents, Breman and Andrews. Pursuant to such service and notice, the Panel has jurisdiction over these Respondents despite their failure to file Answers to the Claim or to appear and defend at the hearing. The Panel proceeded with the hearing of this matter as if Breman and Andrews had each entered an appearance pursuant to Section 29 of the Code.

3. The Claimant has 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 Claimant has agreed to receive conformed copies of the Award while the original(s) remain on file with the NASD.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Andrews, is found liable and shall pay to the Claimant the amount of \$17,632.71 inclusive of interest at the legal rate of 12% from November 1, 1989 to date.
2. Respondent, Bremen, is found liable and shall pay to the Claimant the amount of \$20,435.53, inclusive of interest at the legal rate of 12% from February 14, 1990 to date, pursuant to Section 517.211, Florida Statutes.
3. Claimant's requests for costs and punitive damages are denied.

OTHER COSTS

None.

FORUM FEES

1. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$500.00 (one session x \$500.00). Claimant is hereby assessed \$500.00 for which the NASD shall retain the \$500.00 previously deposited in full satisfaction thereof.
2. The NASD shall retain the \$150.00 filing fee deposited by Claimant in this matter. Fees are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

/s/
Craig Edward Stein, Esq.

Public

/s/
Paul D. Wisse

Industry

/s/
Andrew Bartfay

Public

Date of Decision: August 16 1993