

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Sidney R. Cooperman

NASD Arbitration

91-04080

Name of Respondent/Cross-Claimant

Shearson Lehman Brothers, Inc.

Cross-Respondent

Marty Grossman

REPRESENTATION

For Claimant: Mark C. Riedel, Esq. - Dickson, Carlson & Campillo

For Respondent: Shearson Lehman Brothers - Michael M. Gless, Esq. - Keesal, Young & Logan

For Cross-Respondent: Marty Grossman - Robert Wayne Pearce Esq. - Lerner & Pearce, P.A.

CASE INFORMATION

Statement of Claim filed: December 24, 1991

Claimant's Submission Agreement signed on: December 5, 1991

Statement of Answer and Cross-Claim filed by Respondent, Shearson Lehman Brothers on: January 27, 1992

Respondent, Shearson Lehman Brothers' Submission Agreement signed on: January 7, 1992

HEARING INFORMATION

Pre-Hearing Conference: None

Hearing Dates/Sessions: August 20, 1992 - Two Sessions
August 21, 1992 - Two Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, Sidney R. Cooperman, (Cooperman) alleged that Cross-Respondent, Martin Grossman (Grossman) while employed by Respondent, Shearson Lehman Brothers (Shearson), sold Cooperman's investment in a government securities fund and purchased various limited partnerships and common stock. Cooperman alleged that these transactions were carried out without his prior approval or authority. It

is also alleged that said investments were unsuitable in light of claimant's age and financial condition and were inconsistent with Claimant's investment objectives of safety of principal.

Respondents alleged that Cooperman was, at all time, aware of the nature of the activity in his account and approved all the transaction at issue. It is also asserted that Cooperman never complained of any unauthorized trades and received confirmations and monthly statements fully apprising him of the type of trading undertaken with his authority.

Shearson, by way of cross-claim also alleged that Grossman, in the event some liability is assessed against Shearson, should be required to indemnify Shearson for any costs or awards against it, if any.

RELIEF REQUESTED

Claimant requested monetary damages in excess of \$100,000.00, reimbursement of commissions, fees and undisclosed profits received by Shearson from Cooperman's account, costs, attorneys' fees and punitive damages.

Respondent Shearson, requested dismissal of the claim in its entirety plus costs, and in the alternative, indemnification from Grossman.

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 original(s) remain on file with the NASD.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrator(s) has/have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Shearson Lehman Brothers, is solely liable and shall pay to Claimant, Sidney R. Cooperman, the sum of Twenty Seven Thousand Dollars and No Cents (\$27,000.00).
2. Claimant's claim against Respondent Marty Grossman is dismissed.
3. The cross-claim of Shearson Lehman Brothers, against cross-respondent, Marty Grossman is dismissed.
4. Claimant's claim for punitive damages is dismissed.
5. The parties shall each bear their respective fees, including attorneys' fees.

FORUM FEES

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

1. Claimant, Sidney R. Cooperman, is assessed the sum of \$375.00 representing assessments for three hearing sessions at \$750.00 each less the previously deposited \$750.00.
2. Respondent, Shearson Lehman Brothers, is assessed the sum of \$375.00 representing assessments for three hearing sessions at \$750.00 each, less the previously deposited \$750.00.


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

ARBITRATORS

Name
Chat Olsen

Public/Industry
Public Chairperson
Public
Industry

Concurring Arbitrators' Signatures



DATE SERVED: 09/21/92

Date of Decision: _____