

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
 :
George R. & Elizabeth A., George C., :
Peter M. & Bruce K. Lyon JTWROS :
 :
 : Claimants : CASE #92-00025
 : AWARD
vs. :
 :
Shearson Lehman Brothers, Inc. :
Ken Gray :
 :
 : Respondents :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 3, 1992, George R. & Elizabeth A. Lyon et al. who appeared Pro Se, alleged that Respondent Ken Gray of Shearson Lehman Brothers Inc. purchased and sold options in claimants' account without their authorization or approval and that these trades were unsuitable considering their objectives of conservative financial growth. The Claimants further alleged that their original position in Gillette stock was sold without their authorization or approval, and that respondents Shearson Lehman Brothers Inc. and Ken Gray did not have an options agreement, that they did not disclose the risks associated with option trading, nor did they provide the Claimants with any prospectus. (Underlining provided by Claimants in their claim). The Claimants contended that options were still traded even after the account was closed.

Respondent, Shearson Lehman Brothers Inc. and Ken Gray through their counsel Miles D. Hart, Esq. of Hertz, Schram & Saretsky, Bloomfield Hills, MI, maintained that the sale of the Gillette stock was authorized by the Claimants and a confirmation of the sale was sent to George Lyon to inform him of the sale, as well as the trade appearing on the account statement. Respondents Shearson Lehman Brothers Inc. and Ken Gray further maintained that Claimant George Lyon often contacted Mr. Gray to get information on option trading and that he was fully aware of every transaction in the account. The Respondents stated that if any transactions were unauthorized, upon review of the statements, the Claimants would have complained. Respondents further stated that the Claimants' claims are without merit.

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The Claimants filed a Reply to the Respondents Answer in which they concluded that the Shearson Lehman Brothers documents were falsified as well as the affidavits, and requested they be compensated for their losses caused by Shearson Lehman Brothers & Ken Gray. The Claimants submitted additional submissions to confirm and clarify their allegations.

The Respondents filed a reply to the Claimants response reiterating their position of non-liability.

RELIEF REQUESTED

The Claimants, George R., Elizabeth A., George C., Peter M. & Bruce K. Lyon, JTWROS requested \$10,000.00 in actual damages, plus unspecified punitive damages, interest and return of the NASD filing fee.

Respondents, Shearson Lehman Brothers, Inc. and Ken Gray requested the claims of the Claimants be dismissed and that Respondents be awarded their costs and attorneys' fees.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Carol M. Crosby, Esq., was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on January 2, 1992 and by the Respondent Ken Gray on March 9, 1992 and not signed by Respondent Shearson Lehman Brothers, Inc. as required by Section 12 & 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure.

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 claims of the Claimants George R., Elizabeth A., George C., Peter M. & Bruce K. Lyon, JTWROS against Respondents Shearson Lehman Brothers, Inc. & Ken Gray are dismissed in their entirety.
2. The Claimants' request for punitive damages is denied.

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3. The parties shall bear their respective costs and attorneys' fees.

4. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, INC. by the Claimants shall be retained by the NASD. Respondents Shearson Lehman Brothers, Inc. shall pay \$75.00 to the Claimant as reimbursement for one-half of the filing fee.

AFFIRMATION

I, CAROL M. CROSBY, ESQ., 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.

Carol M. Crosby
Signature of Arbitrator

DATE OF DECISION:

June 29, 1992

DATED BY NASD ~~INC.~~

JUL 14 1992