

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Richard J. Waraksa

92-02644

Name of Respondents

Shearson Lehman Brothers, Inc.
Janet McGlynn

REPRESENTATION

For Claimant: Andrew G. Messina, Esq. of O'Malley, Deneen, Messina & Oswecki.

For Respondents: John R. Snyder, Esq. of Shearson Lehman Brothers, Inc.

CASE INFORMATION

Statement of Claim filed: August 6, 1992.

Claimant's Submission Agreement signed on: July 30, 1992.

Joint Statement of Answer filed by Respondents, Janet McGlynn and Shearson Lehman Brothers, Inc. on: October 22, 1992.

Respondent, Janet McGlynn's Submission Agreement signed on: October 7, 1992.

Respondent, Shearson Lehman Brothers, Inc.'s Submission Agreement signed on: October 20, 1992.

HEARING INFORMATION

Hearing Date/Sessions: June 2, 1993/Two sessions

Hearing Location: NASD offices located in New York City.

CASE SUMMARY

Claimant alleges that Respondents engaged in unauthorized and excessive trading in Claimant's account and that, when questioned about this activity, Respondent Janet McGlynn("McGlynn") assured him that they were simply front office mistakes. Claimant further alleges that he authorized Respondents to sell certain stocks for not less than a specific amount in order to meet three margin calls and that, when the stock was sold, it yielded a shortfall. Claimant further alleges that Respondent liquidated Prospect Group, Inc. stock in his account at a substantial loss which was not communicated to him and that, when questioned about the loss, Respondent informed Claimant that he still had stock in Prospect Group, Inc. Claimant alleges that these actions were fraudulent and in violation of state and federal securities laws.

Respondents maintain that all transactions were discussed with Claimant, and his instructions to execute them obtained, before any of the transactions were made. Respondent Shearson Lehman Brothers, Inc.("Shearson") also maintains that it sent monthly billing statements and trade confirmations for every transaction to the Claimant and that he was aware at all times of the transactions and investments in his account. Respondents also maintain that all trade orders were for execution at market price and that Claimant never instructed a limit or stop loss order. Respondents further maintain that no material facts were omitted and no false statements were made to Claimant by Respondent McGlynn or any of Respondent Shearson's agents.

RELIEF REQUESTED

Claimant requested an award in the amount of \$68,000 in compensatory damages, plus interest, punitive damages, attorneys' fees and costs.

Respondents requested that the claim be dismissed in its entirety and that they be awarded costs, including reasonable attorneys' fees.

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 originals remain on file with the NASD.

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:

- a) All claims are hereby denied in their entirety.
- b) Each party shall bear their respective costs, including attorneys' fees.

FORUM FEES

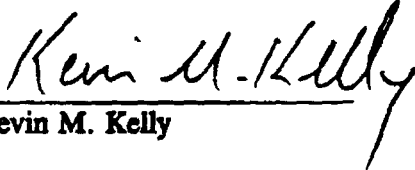
Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fee(s) are assessed.

\$150.00	Non-refundable filing fee
\$1,000.00	Hearing session fees

- 1) Claimant is hereby assessed the non-refundable filing fee of \$150.00 and one-half of the hearing session fees (\$500.00). Claimant is entitled to offset this amount with the \$650.00 previously paid to the NASD, Inc.
- 2) Respondents, Shearson Lehman Brothers, Inc. is hereby assessed one half of the hearing session fees (\$500.00) and is directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Industry Arbitrator


Kevin M. Kelly

Date of Decision: July 28, 1993

STATE OF NEW YORK
COUNTY OF *NEW YORK*

S.S.:

On this *15* day of July, 1993, before me personally appeared Kevin M. Kelly know to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

Robin Anne Engelman

ROBIN ANNE ENGELMAN
Notary Public, State of New York
No. 24-6721378
Qualified in Kings County
Commission Expires Feb. 28, 19*95*

FORUM FEES

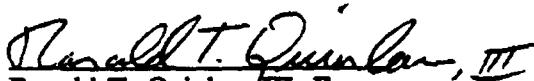
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- 2) Respondents, Shearson Lehman Brothers, Inc. is hereby assessed one half of the hearing session fes (\$500.00) and is directed to pay this account to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Arbitrator

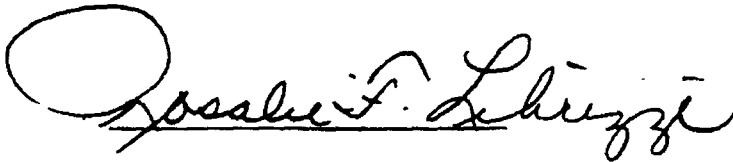

Ronald T. Quinlan, III, Esq.

Date of Decision: July 28, 1993

STATE OF NEW YORK
COUNTY OF

S.S.:

On this ²⁶ day of July, 1993, before me personally appeared Ronald T. Quinlan, III know to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

A handwritten signature in cursive script, reading "Rosalie F. Librizzi". The signature is written in dark ink and is positioned above the printed name and title of the notary.

ROSALIE F. LIBRIZZI
Notary Public, State of New York
No. 41-4506447
Qualified in Queens County
Commission Expires Jan. 31, 1994

FORUM FEES

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\$1,000.00	Hearing session fees

- 1) Claimant is hereby assessed the non-refundable filing fee of \$150.00 and one-half of the hearing session fees (\$500.00). Claimant is entitled to offset this amount with the \$650.00 previously paid to the NASD, Inc.
- 2) Respondents, Shearson Lehman Brothers, Inc. is hereby assessed one half of the hearing session fes (\$500.00) and is directed to pay this account to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Chairperson


Lawrence A. Pittore, Esq.

Date of Decision: July 28, 1993

STATE OF NEW YORK
COUNTY OF WESTCHESTER

S.S.:

On this 9th day of July, 1993, before me personally appeared Lawrence A. Pittore know to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

A handwritten signature in cursive script, appearing to read "Harold J. Johnson", written over a horizontal line.

HAROLD J. JOHNSON
Notary Public, State of New York
No. 4639003
Qualified in Westchester County
Commission Expires Jan. 31, 1995