

NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Virginia Black

and

93-02874

Name of Respondent

John Tomlinson

REPRESENTATION OF PARTIES

Virginia Black ("Claimant") appeared *pro se*.

John Tomlinson ("Respondent") appeared *pro se*.

CASE INFORMATION

The Statement of Claim was filed on or about July 23, 1993. Submission Agreement of Claimant Virginia Black was signed on July 8, 1993.

Statement of Answer was filed by Respondent, John Tomlinson on or about July 13, 1994.

HEARING INFORMATION

The hearing was held on for one (1) session and Thursday, September 22, 1994 for two (2) sessions in Southfield, Michigan for a total of three (3) sessions.

CASE SUMMARY

Claimant alleged that Mr. Tomlinson and Shearson Lehman Hutton were irresponsible and negligent in handling her account. Claimant also alleged that the option trading in her account was not a suitable investment for her in light of her financial condition, experience and investment objectives. Specifically, Claimant alleged that her account was churned.

Respondent Tomlinson stated that the Claimant represented that she had a firm understanding of securities transactions; had enrolled in a class on investing in a wide range of securities; had indicated that risk/appreciation and speculation were her investment objectives. It was also stated in the Answer that Claimant had knowingly and willingly enrolled in the computer trading

program and signed all of the required documentation. In addition, Respondent stated that the Claimant had attempted to get others involved in the trading program. Respondent TOMLINSON further stated that the Claimant received confirmations for each and every trade in the account in addition to telephonic confirmations on the days of the trades.

RELIEF REQUESTED

Claimant requested an award in the amount of \$11,444.08 which includes reimbursement of filing fees and the hearing session deposit.

Respondent requested that the arbitrator decide that the Claimant has already been more than adequately compensated for her investment decisions that didn't work out the way she or anybody else planned and find that no additional money is due the Claimant in this matter.

OTHER ISSUES CONSIDERED & DECIDED

On or about December 13, 1993, the Claimant and Shearson Lehman Brothers, Inc. reached an agreement to settle all claims asserted by the Claimant against Shearson Lehman Brothers, Inc.

Respondent John Tomlinson had requested dismissal of the claims asserted against him due to lack of jurisdiction. Mr. Tomlinson stated that he was no longer associated with a member of the NASD and therefore not subject to the jurisdiction of the NASD. The motion was denied.

Respondent John Tomlinson did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to §12 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

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

1. All claims asserted against Respondent John Tomlinson shall be and hereby are dismissed in their entirety.
2. Each party shall bear its own costs, expenses and attorneys' fees incurred in this matter not specifically enumerated herein.

3. All relief requested not specifically granted herein is hereby denied.

FORUM FEES

Forum fees are calculated at the rate of \$300 per hearing session and \$300 for each prehearing conference, if any. There were three (3) sessions x \$300 = \$900 in forum fees. Pursuant to §43(b) a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less.

Pursuant to §43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$100 and shall retain as forum fees the hearing session deposit in the amount of \$300 previously deposited with the NASD by the Claimant. Claimant shall pay to the NASD the sum of \$600 as the balance due for forum fees. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

/s/ Marc E. Thomas, Esq.
Marc E. Thomas, Esq.
Public Arbitrator, Presiding Chair

October 7, 1994