

9502/20

2/95

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Henry Levin TTEE/Henry Levin Living Trst
Philip Levin
Edward Brewer & Virginia Brewer

93-02947

Name of Respondents

^ Financial Securities Network, Inc.
National Financial Services Corporation
Hyannis Trading Advisors, Inc.
Jeremiah Hegarty
Michael Hegarty

REPRESENTATION

For Claimants Henry Levin, Philip Levin and Edward & Virginia Brewer ("Claimants"): Anthony J. Ferrara, Esq. of Polstein, Ferrara & Dwyer, P.C.

For Respondent Financial Securities Network, Inc. ("FSN"): Richard S. Scafidi.

For Respondent National Financial Services Corporation ("NFS"): Robert A. Buhlman, Esq.

For Respondent Hyannis Trading Advisors, Inc. ("Hyannis"): Jeremiah Hegarty.

Respondent Jeremiah Hegarty ("J. Hegarty") appeared pro se.

Respondent Michael Hegarty ("M. Hegarty") appeared pro se.

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CASE INFORMATION

Statement of Claim filed: July 23, 1993.
Claimant Henry Levin's Living Trust Submission Agreement signed on: August 20, 1993.
Claimant Henry Levin's Submission Agreement signed on: July 1, 1993.
Claimant Philip Levin's Submission Agreement signed on: July 2, 1993.
Claimant Edward Brewer and Virginia Brewer's Submission Agreement signed on: July 1, 1993.

Statement of Answer filed by Respondent, Jeremiah Hegarty on: October 22, 1993.
Respondent Jeremiah Hegarty did not file a Submission Agreement.

Statement of Answer filed by Respondent, Michael Hegarty on: October 20, 1993.
Respondent, Michael Hegarty's Submission Agreement signed on: January 29, 1994.

Statement of Answer filed by Respondent, Hyannis Trading Advisors, Inc. on: October 22, 1993.
Respondent Hyannis Trading Advisors, Inc. did not file a Submission Agreement.

Statement of Answer filed by Respondent, Financial Securities Network, Inc. on: October 27, 1993.
Respondent, Financial Securities Network, Inc.'s Submission Agreement signed on: October 28, 1993.

Statement of Answer filed by Respondent, National Financial Services, Inc. on: November 5, 1993.
Respondent, National Financial Services, Inc.'s Submission Agreement signed on: October 4, 1993.

HEARING INFORMATION

Pre-Hearing Telephone Conference: November 7, 1994.

Hearing Dates/Sessions: September 28, 1994; November 14, 15, 1994; November 29, 1994.

Hearing Location: NASD Offices, 33 Whitehall Street, New York, New York 10004

CASE SUMMARY

Claimants allege they are unsophisticated, inexperienced investors. Their stated investment goals were "capital appreciation" and "income". They believed, based on conversations with, and material sent by Respondents J. Hegarty and M. Hegarty, that the two men were registered representatives with Respondent National Financial Services Corporation and that their accounts were held at Respondent Financial Securities Network, Inc. which cleared through National Financial Services Corporation.

Claimants H. Levin and P. Levin allege Respondents improperly accepted Claimants as clients and defrauded them. Claimants stated they were not qualified for options trading, that such investments were unsuitable for people of such limited resources and experience. Additionally, Claimants allege Respondents did not follow their investing instructions and engaged in unauthorized trading. Respondents accepted more than 28% of Claimant Brewer's net worth, in violation of their representations that the investment would not exceed more than 15% of his net worth.

Claimants allege fraud, deceit, unsuitability.

Respondents Michael and Jeremiah Hegarty defended by stating they were registered representatives for Respondent Financial Securities Network, Inc. which cleared for Respondent National Financial Services Corporation. Respondents claim they fully explained the definition of a discretionary accounts to Claimants and made sure Claimants understood the risks involved in options trading. Respondents further state that Claimants understood the aggressive investment strategy they authorized Respondents to engage in and that Claimants were fully prepared financially to undertake such risks.

Respondents continue to explain that Claimants acknowledged their account assets invested did not exceed 15% of their net worth and that they agreed to the terms of a margin agreement.

Respondent National Financial Services Corporation defended by stating that it cannot be held liable due to its role merely as a clearing broker for Respondent Financial Securities Network. National Financial Services Corporation stated it has never had any affiliation with Respondents M. Hegarty, J. Hegarty or Hyannis Trading Advisors, Inc.

Respondent Financial Securities Network stated it no longer operates as a registered broker dealer and did not intend to defend itself or participate in the arbitration herein

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Respondent Hyannis Trading Advisors, Inc. did not submit to arbitration.

RELIEF REQUESTED

Claimant H. Levin requested \$25,000.00 plus interest in damages, costs, fees and treble damages, and cancellation of debit balance.

Claimant P. Levin requested \$25,000.00 plus interest in damages, costs, fees and treble damages, and cancellation of debit balance.

Claimant Edward Brewer and Virginia Brewer requested \$64,229.38 plus interest, cancellation of their debit balance, costs, fees and treble damages.

Respondents requested all claims against them be dismissed.

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:

1. Michael Hegarty and Financial Securities Network, Inc. are jointly and severally liable to Henry Levin, Trustee for the Henry Levin Living Trust for the sum of TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS.
2. Michael Hegarty and Financial Securities Network, Inc. are jointly and severally liable to Philip Levin for the sum of TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS.
3. Michael Hegarty and Financial Securities Network, Inc. are jointly and severally liable to Edward Brewer and Virginia Brewer for the sum of THIRTY-TWO THOUSAND ONE HUNDRED FOURTEEN DOLLARS AND SIXTY-NINE CENTS.
4. All claims against Jeremiah Hegarty are dismissed on the basis of his prior discharge in bankruptcy.
5. All claims against Hyannis Trading Advisors, inc. are dismissed on the basis that the claims against them are not before the panel, as there is no agreement to arbitrate.

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6. All claims against National Financial Services Corporation are dismissed.
7. All counterclaims are dismissed.
8. All claims for punitive damages are dismissed.

FORUM FEES

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

Non-refundable Filing Fee:	\$ 200.00
Hearing Session Deposit	
(7 sessions x \$750.00)	\$5250.00
Administrative Costs	<u>\$ 180.00</u>
Total Fees	<u>\$5630.00</u>

1. Claimants are liable for one-third of the total forum fees.
Claimants have paid \$950.00 and owe \$926.66.
2. Michael Hegarty and Financial Securities Network, Inc. are jointly and severally liable for one-third of the total forum fees, and owe \$1876.66.
3. National Financial Services, inc. is liable for one-third of the total forum fees and owes \$1876.66.

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

9502120

Concurring Arbitrator's Signature
Name

Public/Industry

Edward T. Hill
Edward T. Hill

Public

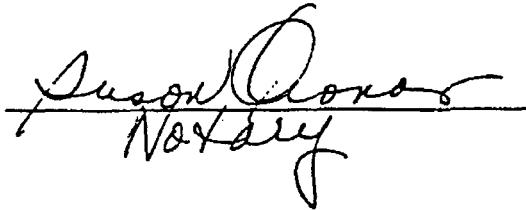
NASD Date of Decision: February 2, 1995

9502/20

STATE OF: New York
COUNTY OF: ~~New York~~ Westchester

S.S.:

On this 20th day of January, 1994⁵, before me personally appeared Edward T. Hill known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

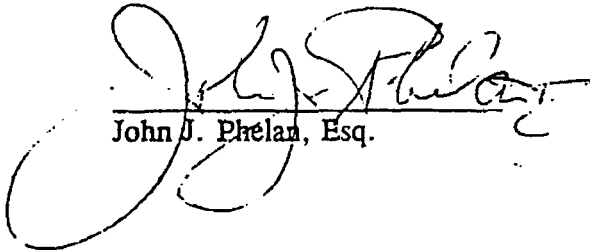

Notary

SUSAN CIARRARRA
Notary Public, State of New York
No. 4762712
Qualified in Westchester County
Commission Expires August 31, 1995

9502120

Concurring Arbitrator's Signature
Name

Public/Industry


John J. Phelan, Esq.

NASD Date of Decision: February 2, 1995

9502/20

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 27th day of JANUARY, 1994, before me personally appeared John J. Phelan, Esq. known and known 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.

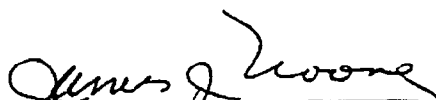
Catherine A. Nolan

CATHERINE A. NOLAN
Notary Public, State of New York
No. 01N05027110
Qualified in New York County
Commission Expires May 2, 1996

9502/20

Concurring Arbitrator's Signature
Name

Public/Industry


James J. Noone

Industry

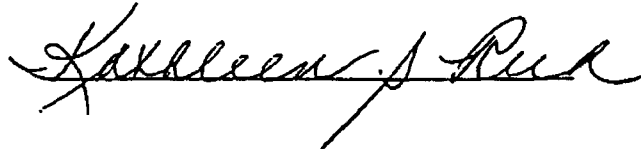
NASD Date of Decision: February 2, 1995

9502120

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 20 day of Jan, 1994⁵, before me personally appeared James J. Noone known and known 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 "Kathleen S. Ruh", written over a horizontal line.

KATHLEEN S. RUH
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES
JAN. 18 1996