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NASD AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

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Securities Dealers, Inc.

Names of Claimants

Edward J. and Cora S. Kaffenberger

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and

Case Number 95-03042

Names of Respondents

Lehman Brothers, Inc.,
Harold Green and Doran Young

REPRESENTATION OF PARTIES

Edward J. and Cora S. Kaffenberger ("Claimants") were represented by Steven Shults, Esq. of Shults, Ray & Kurrus located in Little Rock, AR.

Lehman Brothers, Inc., Harold Green and Doran Young ("Respondent") were represented by Jack Ballard, Esq. of Andrews & Kurth, L.L.P. located in Houston, TX.

CASE INFORMATION

The Statement of Claim was filed on or about July 14, 1995.

The Supplemental Statement of Claim was filed on or about January 7, 1996.

The Submission Agreement of Claimants was signed on June 19, 1995.

The Joint Statement of Answer was filed by all Respondents on or about September 25, 1995.

The Submission Agreement of Respondent, Lehman Brothers, Inc. was signed on October 3, 1995 by William Olshan, Vice President.

The Submission Agreement of Respondent, Harold Green was signed on October 12, 1995.

HEARING INFORMATION

The hearing was held in Little Rock, AR on the following dates:

- March 6, 1996 for two (2) sessions
- March 7, 1996 for one (1) session

CASE SUMMARY

Claimants, Edward J. and Cora S. Kaffenberger (the "Kaffenbergers") alleged that beginning February 4, 1992, Lehman Brothers, Inc. ("Lehman") by and through its representative, Harold Green ("Green") mishandled their three accounts by churning the accounts and by making inappropriate investments for the purpose of generating commissions and income for the Respondents. The Claimants contended that they were unsophisticated investors with preservation of principal and a reasonable return on the principal as their investment objectives. According to the Claimants, the Respondents caused the Wenbergers' accounts to be involved in extensive margin trading, option trading and trading in speculative securities which were unsuitable for the Claimants. The Kaffenbergers claimed that some of the inappropriate investments from 1993 and 1994 included Home Holdings, Inc. stock, Media Vision stock, Spanish Government Eurobonds, Japanese Yen Bear warrants, American Depository Receipts, Global Privatization Funds and call options. The Claimants alleged that Lehman and Doran Young ("Young"), the branch manager, failed to monitor and supervise Green's activities with the Kaffenbergers and the accounts as required. As alleged, the Respondents caused the Claimants to engage in transactions by making untrue statements of material fact concerning the suitability and the risks of the investments in addition to making omissions of material fact regarding commissions, fees and costs. The Claimants made other specific allegations against the Respondents including, but not limited to, common law fraud, deceit and breach of fiduciary duty.

Respondents, Lehman Brothers, Inc., Harold Green and Doran Young denied the allegations set forth in the Statement of Claim. The Respondents specifically stated that the Kaffenbergers were sophisticated investors who retained control over their accounts at all times and that the losses incurred were the result of market fluctuations. The Respondents asserted many affirmative defenses including, but not limited to, failure to state a claim upon which relief may be granted, waiver, estoppel, ratification and failure to mitigate.

RELIEF REQUESTED

Claimants requested an award in the amount of \$116,500.00 in compensatory damages, prejudgment interest and punitive damages in an amount at least equal to the compensatory damages as well as costs, expenses and attorneys' fees.

Respondents requested that the claims asserted against them be denied in their entirety and that it be awarded their costs.

OTHER ISSUES CONSIDERED & DECIDED

Respondent, Doran Young did not file with the NASD a properly executed submission to arbitration but is required to submit to arbitration pursuant to Section 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 and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Lehman Brothers, Inc. is hereby liable for and shall pay to the Claimants, Edward J. and Cora S. Kaffenberger the sum of \$16,500.00 in compensatory damages as well as simple interest at a rate of 6% per annum from November 28, 1994 until date of payment;
2. Respondent, Lehman Brothers, Inc. is hereby liable for and shall pay to the Claimants, Edward J. and Cora S. Kaffenberger the amount of \$4,285.49 for costs;
3. The parties shall bear their own costs including attorneys' fees except for those specifically enumerated herein; and
4. All relief not specifically granted herein is hereby denied.

FORUM F E E S

Forum fees are calculated at the rate of \$500.00 per hearing session. There were three (3) sessions x \$500.00 = \$1,500.00 in forum fees. Pursuant to Section 43(b) of the Code of Arbitration Procedure, 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 Section 43(c) of the Code, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain as forum fees the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimants, Edward J. and Cora S. Kaffenberger. Claimants, Edward J. and Cora S. Kaffenberger are liable for and shall pay to the NASD the sum of \$250.00 in additional forum

NASD Arbitration No. 95-03042

Award Page 4 of 4

fees. Respondent, Lehman Brothers, Inc. is hereby liable for and shall pay to the NASD the amount of \$750.00 in forum fees.

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

Signatures:

Dated:

May 6, 1996

May 3, 1996

May 6, 1996

Date served by the NASD: May 13, 1996