

NASD REGULATION, INC. AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Adriane Kellerman, n/k/a Adriane Leavitt

96-05698

Name of Respondents

Principal Financial Securities, Inc.;
Jeffrey Lieungh

REPRESENTATION

For Claimant: Adriane Kellerman, n/k/a Adriane Leavitt ("Leavitt") was represented by Marshall J. Belgrad, Esq., located in Northbrook, Illinois.

For Respondents: Principal Financial Securities, Inc. ("Principal") was represented by Janiece M. Longoria, Esq. of Ogden, Gibson, White & Broocks, L.L.P., located in Houston, Texas. Jeffrey Lieungh ("Lieungh") appeared pro se.

CASE INFORMATION

Statement of Claim filed: December 23, 1996.

Claimant's Submission Agreement signed on: January 30, 1997

Statement of Answer filed by Respondent Principal on: April 1, 1997.

Respondent Principal's Submission Agreement signed on: March 27, 1997 by Susan Brown Owens, Assistant General Counsel and Assistant Vice President, Principal Financial Securities, Inc.

Statement of Answer filed by Respondent Lieungh on: March 21, 1997.

Respondent Lieungh's Submission Agreement signed on: March 13, 1997

HEARING INFORMATION

Pre-Hearing Conference: None Held.

Hearing Dates/Sessions: February 25, 1998 for Two (2) sessions; and
February 26, 1998 for Two (2) sessions.

Hearing Location: Chicago, Illinois.

CASE SUMMARY

Claimant alleged that Respondent Lieungh, while employed by or acting as an agent for Respondent Principal, engaged in the following activities in her account:

1. Misrepresented and fabricated the information on Leavitt's New Account Form;
2. Purchased shares of stock on margin without Leavitt's knowledge or permission;
3. Engaged in option trading in Leavitt's account without her permission; and
4. Misrepresented the quality and future performance of the stock purchased for Leavitt's account.

Based upon these allegations, Leavitt asserted claims for unauthorized trading in options; breach of fiduciary duty; churning; and fraudulent misrepresentation.

Respondent Principal denied the material allegations of the Statement of Claim, alleging that Leavitt informed Lieungh that her account objectives were speculative in nature; each trade was discussed prior to purchase; Leavitt authorized and approved each transaction in advance; and, in spite of the allegations of her claim, Leavitt never sent a letter of complaint or communicated any dissatisfaction regarding the handling of her account to Principal. In addition, Principal asserted several affirmative defenses.

Respondent Lieungh denied the material allegations of the claim, alleging that Leavitt was an educated woman in control of her financial affairs who was fully aware of the margin trading in her account. All trades were made with the full knowledge, understanding and consent of Leavitt. In addition, Lieungh asserted several affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages of \$39,537.66; punitive damages to be determined by the arbitrators; attorneys' fees and costs.

Respondent Principal requested that the panel dismiss the claims in all respects and that it

be awarded attorneys' fees incurred in the proceeding.

Respondent Lieungh requested that the claim be dismissed and the attorneys' fees and cost incurred by him be assessed against Leavitt.

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:

1. The statement of claim is dismissed with prejudice and denied in its entirety;
2. The parties shall bear their own costs of arbitration, including attorneys' fees, except for those specifically enumerated herein; and
3. Any relief not specifically awarded is hereby denied.

OTHER COSTS

Respondent Principal Financial Securities, Inc. is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$400.00 as a postponement fee (assessed for postponement of August 26, 1997). In addition, Respondent Principal Financial Securities, Inc. is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$200.00 as a member surcharge assessed pursuant to Rule 10333 of the Code.

FORUM FEES

Pursuant to Rule 10332[c] of the Code of Arbitration Procedure, the following Forum Fees are assessed: Four (4) hearing sessions x \$400.00 per session = \$1,600.00.

The NASD Regulation, Inc., Office of Dispute Resolution shall retain the \$120.00 non-refundable claim filing fee and, as forum fees, the \$400.00 hearing session deposit previously deposited by the Claimant, Adriane Kellerman, n/k/a Adriane Leavitt. In addition, Claimant Adriane Kellerman, n/k/a Adriane Leavitt is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$133.33 as additional forum fees. Respondent Principal Financial Securities, Inc. is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$533.34 as forum fees. Respondent Jeffrey Lieungh is liable for and shall pay to the NASD Regulation, Inc. Office of Dispute Resolution the sum of \$533.33 as forum fees.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution

Concurring Arbitrators' Signatures

Name

Date

/s/ Charles Orlove

March 31, 1998

Charles Orlove
Public Arbitrator
Chairperson

/s/ Peter Ordower, Esq.

March 31, 1998

Peter Ordower, Esq.
Public Arbitrator

/s/ Michael E. Rogers

April 8, 1998

Michael E. Rogers
Industry Arbitrator

For ODR Use Only/Date of Decision: April 9, 1998