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**NYSE**

New York  
Stock Exchange, Inc

SECURITIES AND EXCHANGE COMMISSION  
RECEIVED  
FEB 25 1986  
DIVISION OF MARKET REGULATION

December 24, 1986

Robert Love, Esq.  
Special Counsel  
Division of Market Regulation  
Securities and Exchange Commission  
450 5th Street, N.W.  
Washington, D. C. 20549

Re: Joan H. Smith

Dear Mr. Love:

As discussed in your recent telephone conversation with Donald N. Malawsky, the Exchange has conducted a review of the complaint of Joan H. Smith against Shearson Lehman Brothers Inc. ("Shearson").

Our inquiry included a visit to the Shearson branch office in question by an Examiner from the Sales Practice Review Unit during which the branch office manager and other Shearson personnel were interviewed. The Examiner's review focused primarily on the new account documentation and account statements for the Joan H. Smith account and the voluminous transcript of the CBOE arbitration. In addition, the accounts for the Mary Duke Smith trust and George Hybert were also considered.

Our review revealed that Ms. Smith was apparently aware of and acceded to the options activity in her account. The branch office manager, in a memorandum dated September 28, 1981, stated that he had discussed the account with her a few days before and during that discussion she confirmed she was aware of the nature and risks of the activity in her account and approved of such activity. According to that memorandum, the customer also acknowledged she was aware of the losses in her account. In addition, the branch office manager confirmed the substance of this conversation during his testimony at the arbitration and also stated that Ms. Smith would visit the office several times a week. Furthermore, in July 1982, the customer executed a letter which specifically stated that she approved of the transactions in her account and was aware of their speculative nature. Finally, the CBOE

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arbitration panel after considering the evidence, rejected the claims with respect to all three accounts. It should be noted that the activity in the George Hybert account was similar to that in Ms. Smith's account.

With respect to the discrepancies on Ms. Smith's new account documents, it would appear the second document was prepared after Shearson refused to approve the customer for uncovered option writing and was based upon information provided by the registered representative who is now deceased. While we have not been able to determine the reason for the discrepancies, it should be noted that under Shearson's guidelines the information on the first document would have permitted the customer to engage in the options transactions effected in her account.

With respect to the alleged inaccuracies in the new account documentation for the Mary Duke Smith account for which Ms. Smith is trustee and the George Hybert account, our review indicates they are not sufficiently material to warrant further action.

In view of the foregoing, the fact that the principal complainant was, based on the available evidence, aware of and acceded to the activity in her account, the unavailability of the registered representative who handled all the accounts and the fact that these events occurred five years ago, the Exchange has determined that no further action is warranted.

If you have any further questions, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "J. L. McFarman". The signature is written in dark ink and is positioned below the typed name "Very truly yours,".