

# Ex-Lehman rep scores rare arb win as forgivable loan is forgiven

**Finra panel says Tanner does not have to pay back promissory note; document, document, document**

By **Andrew Osterland** | *March 5, 2013 - 4:20 pm EST*

Former Lehman Brothers Holdings Inc. broker Paul Tanner won a Financial Industry Regulatory Authority arbitration case yesterday against his former employer. The decision means the broker does not have to pay back \$337,000 left on a forgivable loan the now-bankrupt firm gave him in 2004.

The Finra panel ruled that Mr. Tanner did not have to pay Lehman the remaining balance on the loan, nor any interest, attorney's fees or collection costs for which Lehman was suing. It also ruled that Lehman had to pay Mr. Tanner the \$600 non-refundable portion of a counterclaim filing fee and more than \$10,000 in hearing session fees charged by Finra.

"It's pretty unusual for brokers to win these kinds of cases," said Jeffrey Sonn, a lawyer with Sonn & Erez PLC, who represented the former Lehman rep. "This is a big deal."

Indeed, Mr. Tanner's win in the promissory-note flap appears to be an exception to the rule. Lehman, which filed for bankruptcy in 2008, identified 113 notes that it planned to collect from former brokers. The total loan balance of those notes was just under \$80 million, with Lehman demanding repayment on \$51 million of that total

As of the end of January, Lehman spokeswoman Kimberly Macleod said the firm had settled 45 cases for the full value of the loan balances. Of the 20 cases that have gone to arbitration, she said, Lehman has won at least the full principal amount and costs of

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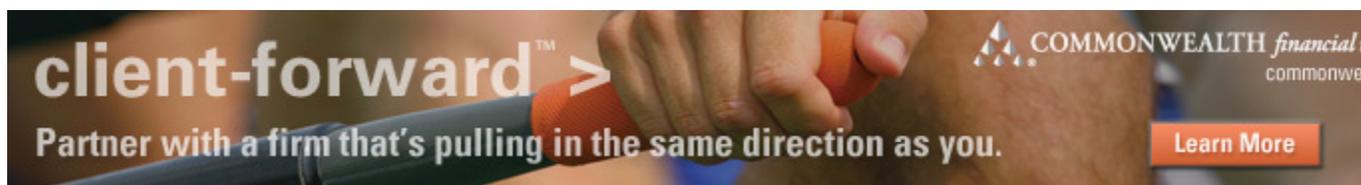
collection in 15 of them.

Ms. Macleod said 13 cases involving promissory notes are yet to be resolved.

Mr. Sonn argued that his client was also due \$1.7 million for referral fees on investment banking business that he brought to Lehman. With Lehman still in bankruptcy, the Finra panel did not award Mr. Tanner his counterclaims.

The key to Mr. Tanner's victory, said Mr. Sonn, was documentation. The broker kept e-mails and documents indicating that he was the source of numerous banking deals brought to Lehman investment bankers. Mr. Sonn also had e-mails he procured in the discovery process from Barclays, which bought Lehman's U.S. brokerage business.

"The lesson is, if you're owed money, document what's going on and save your e-mails," said Mr. Sonn.



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