

Arbitration
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Michael J. Schweitzer

Case No. 00-00010

Names of Respondents

Bear Stearns & Co., Inc.
Adam J. Cabibi

REPRESENTATION OF PARTIES

For Michael J. Schweitzer, hereinafter referred to as "Claimant": Stephen A. Baker, Esq., Allan & Shipp, P.A., St. Petersburg, Florida.

For Bear Stearns & Co., Inc. ("Bear Stearns") and Adam J. Cabibi ("Cabibi"), hereinafter collectively referred to as "Respondents": Arlene Semaya, Esq., Respondent Bear Stearns, New York, New York. On or about April 17, 2000, Bennett Falk, Esq., Morgan, Lewis & Bockius, LLP, Miami, Florida, substituted as counsel for Respondents.

CASE INFORMATION

Statement of Claim filed on or about: December 23, 1999.

Claimant signed the Uniform Submission Agreement on: December 13, 1999.

Statement of Answer filed by Respondents on or about: March 13, 2000.

Respondent Bear Stearns signed Uniform Submission Agreements on: March 10, 2000 and March 13, 2000.

Respondent Cabibi signed the Uniform Submission Agreement on: March 8, 2000.

CASE SUMMARY

Claimant asserted the following causes of action: 1) negligence; 2) unlawful sales practices; 3) breach of fiduciary duty; 4) misrepresentation; and 5) breach of contract. The causes of action relate to the purchase of shares of stock in Cityscape Financial Corp.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: 1) Claimant failed to state a claim upon which relief may be granted; 2) Claimant's claims are barred by the applicable statute of limitations; 3) Claimant's losses, if any, were caused by his own conduct or negligence and/or the negligence of a third party; 4) Claimant failed to exercise the requisite care and diligence in the monitoring, trading, management, and handling of his own account; 5)

Claimant's losses, if any, were caused by market conditions and/or fluctuation beyond the control or prediction of Respondents and not by any act or omission on the part of Respondents; 6) Claimant failed to take reasonable and ordinary efforts to mitigate his losses; 7) Respondent Bear Stearns acted in good faith and in compliance with all applicable securities laws, regulations and industry standards of conduct in the handling of Claimant's accounts; 8) Respondent Bear Stearns maintained an adequate and reasonable system of supervision and control of its employees, including Respondent Cabibi; 9) Claimant expressly authorized, approved, consented and/or ratified each and every transaction in his account; and 10) Claimant participated in and accepted the benefits of the alleged improper conduct and/or use of material, non-public information.

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of \$125,886.01; 2) actual damages for lost income; 3) costs; 4) attorneys' fees; and 5) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim; and 2) costs.

OTHER ISSUES CONSIDERED AND DECIDED

At the evidentiary hearing, the Panel denied Respondents' motion to permit the telephonic appearance of witness Michael Diana. The Panel denied Claimant's motion to permit the telephonic appearance of a representative of Respondent Bear Stearns.

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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents are liable, jointly and severally, and shall pay to Claimant compensatory damages in the amount of \$12,000.00, pre-judgment interest specifically excluded and denied. Post-judgment interest is awarded in accordance with Rule 10330(h) of the Code. The Panel finds Respondents liable on the claims of negligence and breach of fiduciary duty. The Panel finds no liability on the claims of misrepresentation, unlawful sales practices and breach of contract.
2. Claimant's request for attorneys' fees is denied.
3. All other requests for relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$1,500.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

April 11, 2001, Respondent Bear Stearns = \$1,125.00
(adjournment fee assessed by Panel to Claimant)

May 2 and 3, 2001, Respondent Bear Stearns = \$ 0.00
(adjournment fee waived by Panel)

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Four (4) Pre-hearing sessions with Panel x \$1,125.00 = \$4,500.00

Pre-hearing conferences: August 15, 2000 1 session
February 2, 2001 1 session
April 4, 2001 1 session
April 27, 2001 1 session

Four (4) Hearing sessions x \$1,125.00 = \$4,500.00

Hearing Dates: April 10, 2001 1 session
May 10, 2001 2 sessions
May 11, 2001 1 session

Total Forum Fees = \$9,000.00

The Panel has assessed \$4,500.00 of the forum fees to Claimant.

The Panel has assessed \$4,500.00 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

FEE SUMMARY

Claimant be and hereby is solely liable for:

| | | |
|---|---------------------|--------------|
| Initial Filing Fee | = \$ 300.00 | |
| Adjournment Fee | = \$1,125.00 | |
| Forum Fees | = \$4,500.00 | |
| Total Fees | = \$5,925.00 | |
| <u>Less payments</u> | <u>= \$1,425.00</u> | |
| Balance Due NASD Dispute Resolution, Inc. | | = \$4,500.00 |

Respondent Bear Stearns be and hereby is solely liable for:

| | | |
|---|---------------------|-----------|
| Member Fees | = \$4,600.00 | |
| Total Fees | = \$4,600.00 | |
| <u>Less payments</u> | <u>= \$4,600.00</u> | |
| Balance Due NASD Dispute Resolution, Inc. | | = \$ 0.00 |

Respondents be and hereby are jointly and severally liable for:

| | | |
|---|---------------------|--------------|
| Forum Fees | = \$4,500.00 | |
| Total Fees | = \$4,500.00 | |
| <u>Less payments</u> | <u>= \$1,555.00</u> | |
| Balance Due NASD Dispute Resolution, Inc. | | = \$2,945.00 |

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

ARBITRATION PANEL

| | | |
|----------------------------------|---|------------------------------------|
| John M. Tapley | - | Public Arbitrator, Presiding Chair |
| C. Bette Wimbish | - | Public Arbitrator |
| Lawrence Zenville Rosenberg, CFP | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

_____/s/_____
John M. Tapley
Public Arbitrator, Presiding Chair

Signature Date

_____/s/_____
C. Bette Wimbish
Public Arbitrator

Signature Date

Lawrence Zenville Rosenberg, CFP
Non-Public Arbitrator

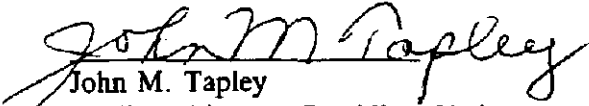
Signature Date

June 19, 2001
Date of Service (For NASD-DR office use only)

ARBITRATION PANEL

| | | |
|----------------------------------|---|------------------------------------|
| John M. Tapley | - | Public Arbitrator, Presiding Chair |
| C. Bette Wimbish | - | Public Arbitrator |
| Lawrence Zenville Rosenberg, CFP | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures


John M. Tapley
Public Arbitrator, Presiding Chair

6/3/01
Signature/Date

C. Bette Wimbish
Public Arbitrator

Signature Date

Lawrence Zenville Rosenberg, CFP
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

JUN 11 2001

FL ARBITRATION

ARBITRATION PANEL

| | | |
|----------------------------------|---|------------------------------------|
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| C. Bette Wimbish | - | Public Arbitrator |
| Lawrence Zenville Rosenberg, CFP | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

John M. Tapley
Public Arbitrator, Presiding Chair

Signature Date

C. Bette Wimbish - ESQ
C. Bette Wimbish
Public Arbitrator

Signature Date

Lawrence Zenville Rosenberg, CFP
Non-Public Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

ARBITRATION PANEL

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|----------------------------------|---|------------------------------------|
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| C. Bette Wimbish | - | Public Arbitrator |
| Lawrence Zenville Rosenberg, CFP | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

John M. Tapley
Public Arbitrator, Presiding Chair

Signature Date

C. Bette Wimbish
Public Arbitrator

Signature Date

Lawrence Zenville Rosenberg, CFP
Lawrence Zenville Rosenberg, CFP
Non-Public Arbitrator

6/26/2001
Signature Date

Date of Service (For NASD-DR office use only)