

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Lau Hat Cheong and Man Chi Pun, Claimants v. Adolph Komorsky Hoffman & Associates, Ltd., Donovan Lazar, Mark E. Komorsky, Francis Richard Fletcher, Helen S. Hoffman, Adolph Peter Williams, and Bear, Stearns Securities Corporation, Respondents

Case Number: 00-05058

Hearing Site: San Francisco, California

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**REPRESENTATION OF PARTIES**

For Claimants:

Timothy A. Canning, Esq.  
Irwin Stein, Esq.  
Law Offices of Timothy A. Canning  
Novato, California

For Respondents Adolph Komorsky Hoffman  
& Associates, Ltd., Mark E. Komorsky,  
Francis Richard Fletcher, Adolph Peter Williams:

Richard A. Roth, Esq.  
Littman, Krooks, Roth & Hall  
New York, New York

For Respondent Donovan Lazar:

Robert T. Sullwold, Esq.  
Sullwold & Hughes  
San Francisco, California

For Respondent Helen S. Hoffman:

John E. Lawlor, Esq.  
Law Offices of John E. Lawlor  
Mineola, New York

For Respondent Bear, Stearns Securities  
Corporation:

Peter Boutin, Esq.  
Kelly J. Moynihan, Esq.  
Keesel, Young & Logan  
San Francisco, California

### **CASE INFORMATION**

Statement of Claim filed: November 14, 2000

Joint Motion to Dismiss filed by Respondents Adolph Komorsky Hoffman & Associates, Ltd., Mark E. Komorsky, Francis Richard Fletcher, and Adolph Peter Williams: May 1, 2001

Statement of Answer filed by Respondent Helen S. Hoffman: April 30, 2001

Statement of Answer filed by Respondent Donovan Lazar: May 2, 2001

Statement of Answer and Motion to Dismiss filed by Respondent Bear, Stearns Securities Corporation: April 12, 2001

Claimants Lau Hat Cheong and Man Chi Pun's Uniform Submission Agreement signed: June 20, 2000

Respondent Adolph Komorsky Hoffman & Associates, Ltd.'s Uniform Submission Agreement signed: April 5, 2001

Respondent Donovan Lazar's Uniform Submission Agreement: Signed, but undated

Respondent Mark Komorsky's Uniform Submission Agreement signed: April 5, 2001

Respondent Adolph Peter Williams' Uniform Submission Agreement signed: April 5, 2001

Respondent Helen Hoffman's Uniform Submission Agreement signed: March 19, 2001

Respondent Bear, Stearns Securities Corporation's Uniform Submission Agreement signed: April 18, 2002

### **CASE SUMMARY**

Claimants alleged fraud, misrepresentation, failure to supervise, unfair dealing, violations of NASD Rules, negligence, breach of contract, breach of fiduciary duty, and unsuitability involving unspecified penny stock transactions.

Respondents Adolph Komorsky Hoffman & Associates, Ltd., Mark E. Komorsky, Francis Richard Fletcher, and Adolph Peter Williams denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

Respondents Helen S. Hoffman, Donovan Lazar, and Bear, Stearns Securities Corporation each denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of \$110,000.00, punitive damages of \$240,000.00, and costs.

Respondents Adolph Komorsky Hoffman & Associates, Ltd., Mark E. Komorsky, Francis Richard Fletcher, and Adolph Peter Williams requested dismissal of the Claimants Statement of Claim in its entirety, and costs, including attorney's fees.

Respondent Helen S. Hoffman requested dismissal of the Claimants' Statement of Claim in its entirety.

Respondents Donovan Lazar and Bear, Stearns Securities Corporation requested dismissal of the Claimants' Statement of Claim in its entirety, and costs.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On February 6, 2002, the Panel denied the Motions to Dismiss filed by Respondents Adolph Komorsky Hoffman & Associates, Ltd., Mark E. Komorsky, Francis Richard Fletcher, Adolph Peter Williams, and Bear, Stearns Securities Corporation.

On June 5, 2002, Claimants dismissed Respondent Bear, Stearns Securities Corporation.

On June 5, 2002, Respondent Helen S. Hoffman filed a Motion to Dismiss. The Panel deferred this Motion to the hearing. At the hearing, the Claimants informed the Panel that Respondent Helen S. Hoffman was dismissed.

The parties 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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims against Respondent Francis Richard Fletcher are denied in their entirety.
2. Claimants' claims against Respondents Mark Komorsky and Adolph Peter Williams individually and the firm of Adolph Komorsky & Associates are denied in their entirety.
3. Claimants' claims against Respondent Donovan Lazar are denied in their entirety.
4. Claimant is liable to and shall pay Respondent Adolph Komorsky & Associates \$15,000.00 as reimbursement for attorney's fees and costs.
5. Except as stated in paragraph 4 above, the parties shall bear their respective costs, including attorney's fees.
6. All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 300.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy.

The member firm Adolph Komorsky Hoffman & Associates, Ltd. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 2,500.00</u>
<b>Total Member Fees</b>	<b>= \$ 4,600.00</b>

The member firm Bear, Stearns Securities Corporation is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$ 2,500.00</u>
<b>Total Member Fees</b>	<b>= \$ 4,600.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Three (3) Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 3,375.00
Pre-hearing conferences:	
November 2, 2001	1 session
October 10, 2002	1 session
November 1, 2002	1 session

Five (5) Hearing sessions @ \$1,125.00/session = \$ 5,625.00

Hearings:	June 17, 2002	2 sessions
	June 18, 2002	2 sessions
	December 2, 2002	1 session

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**Total Forum Fees** = \$ 9,000.00

1. The Panel assessed \$4,500.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$4,500.00 of the forum fees to Respondent Donovan M. Lazar.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Claimants requested speakerphone at venue for teleconference with  
their witnesses = \$ 129.12

Respondent Adolph Komorsky Hoffman & Associates, Ltd.  
requested duplication of hearing tapes: = \$ 75.00

**Fee Summary**

1. Claimants Lau Hat Cheong and Man Chi Pun are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 4,500.00
<u>Administrative Costs</u>	= \$ 129.12
Total Fees	= \$ 4,929.12
<u>Less payments</u>	= \$( 1,425.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,504.12</b>

2. Respondent Adolph Komorsky Hoffman & Associates, Ltd. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Administrative Costs</u>	= \$ 75.00
Total Fees	= \$ 4,675.00
<u>Less payments</u>	= \$( 4,675.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

3. Respondent Bear, Stearns Securities Corporation is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	= \$( 4,600.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>

4. Respondent Donovan M. Lazar is charged with the following fees and costs:

Forum Fees	= \$ 4,500.00
<u>Less payments</u>	= \$( 0.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 4,500.00</b>

All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Lester Friedman, Esq.	-	Public Arbitrator, Presiding Chair
Linda M. McCoy, CPA	-	Public Arbitrator
Mary H. Evans, J.D	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
Lester Friedman, Esq.  
Chair, Public Arbitrator

12/27/02  
Signature Date

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Linda M. McCoy, CPA  
Public Arbitrator

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Signature Date

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Mary H. Evans, J.D  
Non-Public Arbitrator

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Signature Date

12/30/02  
Date of Service



**ARBITRATION PANEL**

Lester Friedman, Esq.	-	Public Arbitrator, Presiding Chair
Linda M. McCoy, CPA	-	Public Arbitrator
Mary H. Evans, J.D	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Lester Friedman, Esq.  
Chair, Public Arbitrator

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Signature Date

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Linda M. McCoy, CPA  
Public Arbitrator

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Signature Date



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Mary H. Evans, J.D  
Non-Public Arbitrator

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Signature Date

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12/30/02  
Date of Service