

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

David M. Rosen (Claimant) v. Bear Stearns & Co., Inc., and Paul S. Greenberg (Respondents)

Hearing Site: New York, New York

Case Number: 01-00167

REPRESENTATION OF PARTIES

Claimant David M. Rosen, hereinafter referred to as "Claimant": Jeffrey Liddle, Esq., Liddle & Robinson, LLP, New York, NY.

Respondents, Bear Stearns & Co., Inc., ("Bear Stearns") and Paul S. Greenberg ("Greenberg"), hereinafter collectively referred to as "Respondents": Robert N. Holzman, Esq., Kramer Levin Naftalis & Frankel LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: January 11, 2001.

Claimant signed the Uniform Submission Agreement: December 28, 2000.

Joint Statement of Answer filed by Respondents on or about: May 22, 2001.

Respondents signed the Uniform Submission Agreement: May 22, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: Bear Stearns breached its employment agreement with Claimant; Respondents are liable for unpaid bonuses under the rules of *quantum meruit* and unjust enrichment; Respondents made fraudulent misrepresentations of Claimant's total annual compensation; Respondents failed to pay Claimant severance; and Respondents violated New York Labor Law.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested the sum of \$550,000.00 as bonus compensation comprised of (1) \$275,000.00 for the 1999 fiscal year, representing the amount of Mr. Rosen's 1998 bonus that was wrongly deducted from his promised 1999 fiscal year bonus of \$400,000.00 and (2) \$275,000.00 for the pro rata bonus period of July through November 1999; \$650,000.00 in damages on the fraudulent misrepresentation claim; punitive damages for Respondents' fraudulent misrepresentations; \$37,000.00 in severance; \$146,875.00 in liquidated damages; interest at the New York statutory rate of nine percent (9%) on all claims; attorney's fees; costs; and any other such relief as the Panel deemed appropriate.

Respondents requested that all claims against them be dismissed in their entirety and that they be awarded costs plus attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

On December 12, 2002, Claimant and Greenberg entered into a Stipulation to dismiss all claims with prejudice.

On December 12, 2002, Claimant and Bear Stearns entered into a Stipulation to dismiss Claimant's claim for fraudulent misrepresentations with prejudice.

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, testimony, and evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Bear Stearns is liable for and shall pay to Claimant \$75,000.00 as bonus payment for the fiscal year ending June 30, 1999, plus interest at the rate of 9% accruing from August 1, 1999 until date of payment.
2. Bear Stearns is liable for and shall pay to Claimant \$37,000.00 in severance pay, plus interest at the rate of 9% accruing from November 19, 1999 until date of payment.
3. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 500.00

Member Fees

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

Member surcharge = \$2,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$4,500.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing session with a single arbitrator @ \$450.00 = \$ 900.00

Pre-hearing conference: September 13, 2002 2 sessions

Two (2) Pre-hearing sessions with Panel @ \$1,200.00 = \$2,400.00

Pre-hearing conferences: November 15, 2001 1 session

October 11, 2002 1 session

Eight (8) Hearing sessions @ \$1,200.00 = \$9,600.00

Hearing Dates: October 17, 2002 2 sessions

May 28, 2003 2 sessions

May 29, 2003 2 sessions

June 12, 2002 2 sessions

Total Forum Fees = \$12,900.00

1. The Panel has assessed \$6,450.00 of the forum fees against Claimant.
2. The Panel has assessed \$6,450.00 of the forum fees against Bear Stearns.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 6,450.00
Total Fees	= \$ 6,950.00
Less payments	= \$ 1,700.00
Balance Due NASD Dispute Resolution	= \$ 5,250.00

2. Bear Stearns is solely liable for:

Member Fees	= \$ 7,600.00
Forum Fees	= \$ 6,450.00
Total Fees	= \$14,050.00
Less payments	= \$ 7,600.00
Balance Due NASD Dispute Resolution	= \$ 6,450.00


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

ARBITRATION PANEL

Robert T. Simmelkjaer, Ph.D	-	Public Arbitrator, Presiding Chair
Scott L. Fagin	-	Non-Public Arbitrator
Abe I. Borenstein	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures:

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.


Robert T. Simmelkjaer, Ph.D
Public Arbitrator, Presiding Chair

July 25, 2003
Signature Date

Scott L. Fagin
Non-Public Arbitrator

Signature Date

Abe I. Borenstein
Non-Public Arbitrator

Signature Date

July 29, 2003
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Scott L. Fagin	-	Non-Public Arbitrator
Abe I. Borenstein	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures:

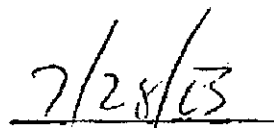
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Robert T. Simmelkjaer, Ph.D
Public Arbitrator, Presiding Chair

Signature Date



Scott L. Fagin
Non-Public Arbitrator



Signature Date

Abe I. Borenstein
Non-Public Arbitrator

Signature Date

July 29, 2003
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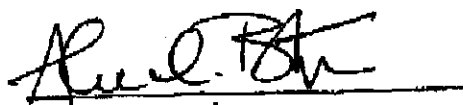
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Robert T. Simmelkjaer, Ph.D
Public Arbitrator, Presiding Chair

Signature Date

Scott L. Fagin
Non-Public Arbitrator

Signature Date



Abe I. Borenstein
Non-Public Arbitrator

7/28/03

Signature Date

July 29, 2003

Date of Service (For NASD Dispute Resolution use only)