

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Karen D. Shenker, (Claimant) vs. First Republic Group, LLC, Bear Stearns & Co. Inc., Bear Stearns Securities Corp., Inc., Andre Grant, Chet Harris, Al Vega, and Tony LaGrega, (Respondents)

Case Number: 01-00732

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, Karen D. Shenker, hereinafter referred to as "Claimant": Lawrence R. Gelber, Esq., Attorney at Law, Brooklyn, NY.

Respondents, First Republic Group, LLC, ("FRG"), Andre Grant ("Grant"), Chet Harris ("Harris"), Al Vega ("Vega"), and Tony LaGrega ("LaGrega") hereinafter collectively referred to as "the First Republic Respondents": Barry R. Temkin, Esq., Jacobowitz, Garfinkel & Lesman, New York, NY.

Respondent, Bear Stearns & Co. Inc. ("BS&C") and Bear Stearns Securities Corp., Inc. ("BSSC"): Joseph E. Gasparetti, Esq., Law Offices of Joseph E. Gasparetti, PC, New York, NY. Previously represented by: Arlene Semaya, Esq., Attorney for Bear, Stearns & Co. Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: February 12, 2001.

Opposition to BS&C and BSSC's Motion to Dismiss filed by Claimant on or about: May 29, 2001.

Motion for Attorneys' Fees filed by Claimant on or about: March 23, 2002.

Motion to Reconsider Ruling on Churning Claim filed by Claimant on or about: March 23, 2002.

Opposition to the First Republic Respondents' Memorandum of Law filed by Claimant on or about: April 10, 2002.

Claimant signed the Uniform Submission Agreement: January 31, 2001.

Joint Statement of Answer filed by the First Republic Respondents on or about: May 7, 2001.

Memorandum of Law filed by the First Republic Respondents on or about: April 2, 2002.

Memorandum of Law in Opposition to Claimant's Motion to Reconsider filed by the First Republic Respondents on or about: April 4, 2002.

FRG did not sign a Uniform Submission Agreement.

Grant did not sign a Uniform Submission Agreement.

Harris did not sign a Uniform Submission Agreement.

Vega signed the Uniform Submission Agreement: June 7, 2001.

LaGrega did not sign a Uniform Submission Agreement.

Joint Statement of Answer and Motion to Dismiss filed by BS&C and BSSC on or about: May 14, 2001.

Reply Memorandum of Law in Support of Motion to Dismiss filed by BS&C and BSSC on or about: June 14, 2001.

BS&C signed the Uniform Submission Agreement: May 14, 2001.

BSSC signed the Uniform Submission Agreement: May 14, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract; securities fraud; violation of Section 10 (b) of the Securities and Exchange Act of 1934 and the Rule 10b-5 promulgated thereunder; common law fraud; breach of fiduciary duty; breach of duty of good faith and fair dealing; negligence; violation of NASD Conduct Rules 2120, 2310, 3010 and regulation IM-2310-2; failure to supervise; respondeat superior; control person liability; churning; unjust enrichment; prima facie tort; excessive mark-ups; and the unauthorized purchase and sale of securities on margin. Claimant's claim involved stocks identified by the symbols FSII and VICL.

Unless specifically admitted in their Answer, the First Republic Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant is a sophisticated investor who understood the risks of, and specifically requested, aggressive investing; Claimant explicitly authorized the acquisition of FSII and VICL stock; Claimant ratified the transactions complained of; Claimant is barred by the doctrines of estoppel, laches, and unclean hands; Claimant failed to mitigate her damages; Claimant's claims are barred by her comparative negligence; and Claimant assumed the risks associated with the transactions of which she now complains.

RELIEF REQUESTED

Claimant requested:

1. Compensatory Damages in the amount of \$150,000.00;
2. Punitive Damages in the amount of \$325,000.00;
3. Recovery of all costs, fees and expenses, including reasonable attorneys' fees; and
4. Such other relief as the Panel deems proper.

Respondents First Republic requested:

1. Dismissal of Claimant's claims in their entirety; and
2. Recovery of all costs, fees and expenses, excluding attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

By letter dated November 9, 2001, Claimant advised NASD Dispute Resolution, Inc. that she was withdrawing, without prejudice, her claims against BS&C and BSSC.

Prior to the conclusion of the hearings in this matter, the Panel granted a Motion to Dismiss Respondent LaGrega.

Prior to the conclusion of the hearings in this matter, the Panel granted the First Republic Respondents' request to dismiss Claimant's churning claim. The Panel denied Claimant's subsequent Motion to Reconsider said dismissal.

The Panel denied Claimant's Motion for Attorneys' Fees.

FRG, Grant, Harris, and LaGrega did not file with NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure and, having answered the claim, appeared and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. FRG, Grant, Harris, and Vega be and hereby are jointly and severally liable for and shall pay to Claimant the sum of \$105,725.00 as compensatory damages, plus interest at the rate of 9% accruing from February 12, 2001 until the date of issuance of this Award.
2. FRG be and hereby is solely liable for and shall pay to Claimant the sum of \$25,000.00 as punitive damages. The Panel awarded punitive damages pursuant to Mastrobuono v. Shearson Lehman Bros., 1152 S.Ct. 1212 (1995), as argued in the Brief in Support of Claim for Punitive Damages submitted by Claimant during the hearings in this matter.
3. FRG be and hereby is solely liable for and shall pay to Claimant the sum of \$300.00, to reimburse Claimant for the filing fee previously paid to NASD Dispute Resolution, Inc.
4. All other requests for relief are hereby denied.

FEES

Pursuant to 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
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, First Republic Group, LLC, Bears Stearns & Co., Inc., and Bear Stearns Securities Corp., Inc., are member firms.

First Republic Group, LLC

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

Bear Stearns & Co., Inc.

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

Bear Stearns Securities Corp., Inc.

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

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$ 450.00	= \$ 450.00
Pre-hearing conference: December 12, 2001 1 session	

One (1) Pre-hearing session with Panel x \$ 1,125.00	= \$ 1,125.00
Pre-hearing conference: August 2, 2001 1 session	

Eighteen (18) Hearing sessions x \$ 1,125.00	= \$20,250.00
Hearing Dates:	
December 18, 2001	2 sessions
December 19, 2001	2 sessions
December 20, 2001	2 sessions
January 8, 2002	2 sessions
January 9, 2002	2 sessions

March 7, 2002	2 sessions	
March 8, 2002	2 sessions	
March 22, 2002	2 sessions	
April 23, 2002	2 sessions	
Total Forum Fees		= \$21,825.00

The Panel has assessed all of the forum fees against FRG.

Fee Summary

1. Claimant be and hereby is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
<u>Refund Due Claimant</u>	= \$ 1,125.00

As stated in the "Award" section above, FRG is solely liable and shall reimburse Claimant for the \$300.00 filing fee.

2. FRG be and hereby is solely liable for:

<u>Member Fees</u>	= \$ 4,600.00
<u>Forum Fees</u>	= \$21,825.00
<u>Total Fees</u>	= \$26,425.00
<u>Less payments</u>	= \$ 4,600.00
<u>Balance Due NASD Dispute Resolution, Inc.</u>	= \$21,825.00

3. BS&C be and hereby is solely liable for:

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

4. BSSC be and hereby is solely liable for:

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

All balances are due and payable to NASD Dispute Resolution, Inc.

NASD REGULATION

NASD Dispute Resolution, Inc.
Arbitration No. 01-00732
Award Page 7

ARBITRATION PANEL

Howard L. Sobel
Sanford S. Stevens, Esq.
Frank Irizarry, Esq.

Public Arbitrator, Presiding Chair
Public Arbitrator
Industry 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 which is my award.



Howard L. Sobel
Public Arbitrator, Presiding Chair

Signature Date

Sanford S. Stevens, Esq.
Public Arbitrator

Signature Date

Frank Irizarry, Esq.
Industry Arbitrator

Signature Date

May 24, 2002

Date of Service (For NASD office use only)

ARBITRATION PANEL


Howard L. Sobel	-	Public Arbitrator, Presiding Chair
Sanford S. Stevens, Esq.	-	Public Arbitrator
Frank Irizarry, Esq.	-	Industry Arbitrator

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Howard L. Sobel
Public Arbitrator, Presiding Chair

Signature Date



Sanford S. Stevens, Esq.
Public Arbitrator

5/24/02

Signature Date

Frank Irizarry, Esq.
Industry Arbitrator

Signature Date

May 24, 2002

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
Arbitration No. 01-00732
Award Page 9

ARBITRATION PANEL

Howard L. Sobel	-	Public Arbitrator, Presiding Chair
Sanford S. Stevens, Esq.	-	Public Arbitrator
Frank Irizarry, Esq.	-	Industry Arbitrator

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Howard L. Sobel
Public Arbitrator, Presiding Chair

Signature Date

Sanford S. Stevens, Esq.
Public Arbitrator

Signature Date



Frank Irizarry, Esq.
Industry Arbitrator

5/23/02
Signature Date

May 24, 2002

Date of Service (For NASD office use only)