

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

James A. Cecire, (Claimant) vs. Josephthal & Co., Inc., Bear Stearns Securities Corp.,
Michael A. Volpe, and Steven J. Kowitski, (Respondents)

Case Number: 01-01510

Hearing Site: New York, New York

REPRESENTATION OF PARTIES

Claimant, James A. Cecire, hereinafter referred to as "Claimant": Frank Zazzaro, Esq.,
Montclair, NJ.

Respondents, Josephthal & Co., Inc. ("Josephthal") and Michael A. Volpe ("Volpe"):
Angela Turiano, Esq., Josephthal & Co., Inc., New York, NY. Previously represented by
Joseph DaProcida, Esq. and John Bersin, Esq., Josephthal & Co., Inc., New York, NY.

Respondent, Steven J. Kowitski ("Kowitski"): David W. Schmidt, Esq., Lubiner &
Schmidt, Cranford, NJ. Previous represented by Michele Goldmeer, Esq., Ryan Beck &
Co., Livingston, NJ.

Respondent, Bear Stearns Securities Corp. ("Bear Stearns"): John Bersin, Esq.,
Josephthal & Co., Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: March 27, 2001.

Claimant signed the Uniform Submission Agreement: April 17, 2001.

Joint Statement of Answer filed by Respondents Josephthal, Volpe, and Kowitski on or
about: June 28, 2001.

Statement of Answer and Motion to Dismiss filed by Respondent Bear Stearns on or
about: June 28, 2001.

Respondent Josephthal signed the Uniform Submission Agreement: June 28, 2001.

Respondent Bear Stearns signed the Uniform Submission Agreement: June 28, 2001.

Respondents Volpe and Kowitski did not sign the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability, fraud and misrepresentation, breach of fiduciary duty, negligence, breach of contract, and failure to supervise. Claimant's claim involved the stocks of IDTC, Mentor Graphics, Proxy Meds, Cornerstone, Net2Phone, Bids. Com, and Exxon.

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

Unless specifically admitted in its Answer, Respondent Bear Stearns denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages in the amount of \$250,000.00 plus interest;
2. Punitive damages in an amount to be determined by the Panel;
3. The costs and disbursements of this arbitration proceeding, including attorneys fees;
4. Such other and further relief as may be just and proper.

Respondents Josephthal, Volpe, and Kowitski requested the dismissal of all claims in the statement of claim; the assessment of all costs and expenses of this proceeding against Claimant; the expungement of this matter from their CRD files; and all such further relief as the Panel may deem just and necessary.

Respondent Bear Stearns requested the claims asserted against Bear Stearns be dismissed and that the cost of the proceeding be assessed against the Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Kowitski and Volpe did not file with NASD Dispute Resolution properly executed Uniform Submission Agreements but are required to submit to arbitration pursuant to the Code and having answered the claim are bound by the determination of the Panel on all issues submitted.

On December 13, 2001, the Panel granted Bear Stearns' Motion to Dismiss.

On June 16, 2003, Claimant filed an adjournment request. The Panel denied Claimant's adjournment request.

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. Claimant's claim is dismissed without prejudice due to the failure of the Claimant to appear at the hearing.
2. 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	= \$ 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. Accordingly, Josephthal & Co., Inc. and Bear, Stearns Securities Corp. are parties

<u>Josephthal & Co., Inc.</u>	
Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

<u>Bear, Stearns Securities Corp.</u>	
Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

April 25-26 & May 2, 2002, adjournment fee assessed against Josephthal = \$1,125.00
January 13-15, 2003, adjournment fee assessed against Claimant = \$1,125.00

Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with Panel @ \$1,125.00	= \$2,250.00
Pre-hearing conference: November 27, 2001 1 session	
December 13, 2001 1 session	
One (1) Hearing session @ \$1,125.00	= \$1,125.00
Hearing Date: June 17, 2003 1 session	
Total Forum Fees	= \$3,375.00

1. The Panel has assessed \$562.50 of the forum fees jointly and severally against Respondents incurred from the Initial Pre-hearing conference held on November 27, 2001.
2. The Panel has assessed \$2,812.50 of the forum fees against Claimant.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$1,125.00
<u>Forum Fees</u>	= \$2,812.50
Total Fees	= \$4,237.50
<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$2,812.50
2. Respondent Josephthal is solely liable for:

Member Fees	= \$4,600.00
<u>Adjournment Fee</u>	= \$1,125.00
Total Fees	= \$5,725.00
<u>Less payments</u>	= \$5,725.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent Bear Stearns is solely liable for:

<u>Members Fees</u>	= \$2,100.00
Total Fees	= \$2,100.00
<u>Less payments</u>	= \$1,500.00
Balance due NASD Dispute Resolution	= \$ 600.00

4. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$562.50
Balance Due NASD Dispute Resolution	= \$562.50

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

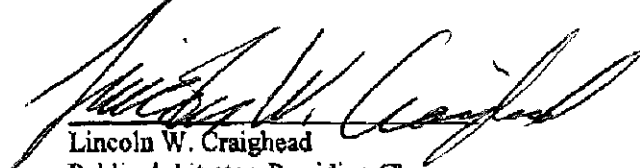
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ARBITRATION PANEL

Lincoln W. Craighead	-	Public Arbitrator, Presiding Chairperson
Rena E. Grossfield	-	Public Arbitrator
Joseph M. Buffone, Esq.	-	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.


Lincoln W. Craighead
Public Arbitrator, Presiding Chairperson

7/1/03
Signature Date

Rena E. Grossfield
Public Arbitrator

Signature Date

Joseph M. Buffone, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution use only)

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Lincoln W. Craighead
Public Arbitrator, Presiding Chairperson

Signature Date

Rena E. Grossfield

Rena E. Grossfield
Public Arbitrator

7/1/03

Signature Date

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Non-Public Arbitrator

Signature Date

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Lincoln W. Craighead
Public Arbitrator, Presiding Chairperson

Signature Date

Rena E. Grossfield
Public Arbitrator

Signature Date

Joseph M. Buffone

Joseph M. Buffone, Esq.
Non-Public Arbitrator

July 1, 2003

Signature Date

Date of Service (For NASD Dispute Resolution use only)