

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Sanford Kellman, Claimant v. Bear Stearns & Co., Inc., CIBC World Markets Corp. f/k/a CIBC Oppenheimer & Co., Inc., and Mark L. Moskowitz, Respondents

Case Number: 01-01846

Hearing Site: San Francisco, California

REPRESENTATION OF PARTIES

For Claimant:

Jonathan W. Evans, Esq.
Jonathan W. Evans & Associates
Los Angeles, California

For Respondents:

Philip A. McLeod, Esq.
Jared S. MacDonald, Esq.
Keesal, Young & Logan
San Francisco, California

CASE INFORMATION

Statement of Claim filed: April 9, 2001

Claimant's Uniform Submission Agreement: Signed, but undated

Joint Statement of Answer filed by Respondents: June 11, 2001

Respondent Bear Stearns & Co., Inc.'s Uniform Submission Agreement signed: May 22, 2001

Respondent CIBC World Markets Corp. f/k/a CIBC Oppenheimer & Co., Inc.'s Uniform Submission Agreement signed: May 22, 2001

Respondent Mark L. Moskowitz's Uniform Submission Agreement signed: May 21, 2001

CASE SUMMARY

Claimant alleged negligence, fraud, deceit, omission of material fact, suitability, breach of fiduciary duty, breach of trust, violation of the Securities Exchange Act of 1934, violation of California Corporation Code §25401, et seq., failure to supervise, violation of NASD rules and regulations, churning, breach of contract, and breach of implied covenant of good faith and fair dealing. Claimant's allegations involve various transactions.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$1,120,000.00 in compensatory damages, disgorgement of commissions in the amount of \$669,292.00, lost investment opportunity costs, interest at the rate of 10%, unspecified punitive damages, and costs, including attorney's fees.

Respondents requested dismissal of the Claimant's Statement of Claim in its entirety, an order directing the Central Registration Depository ("CRD") to expunge the instant arbitration from the records of Respondent Mark L. Moskowitz, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On November 11, 2002, Claimant Sanford Kellman and Claimant's counsel Jonathan W. Evans signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On November 21, 2002, Respondents' counsel Philip A. McLeod signed a Waiver Agreement on behalf of Respondents Bear Stearns & Co., Inc., CIBC World Markets Corp. f/k/a CIBC Oppenheimer & Co., Inc., and Mark L. Moskowitz expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

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. Respondent Mark L. Moskowitz is liable to and shall pay Claimant the sum of \$100,000.00 in compensatory damages.
2. Claimants' request for punitive damages is denied.
3. Respondents' request for an order directing the Central Registration Depository ("CRD") to expunge the instant arbitration from the records of Respondent Mark L. Moskowitz is denied.
4. Respondent Bear Stearns & Co., Inc. is dismissed with prejudice.
5. Respondent CIBC World Markets Corp. f/k/a CIBC Oppenheimer & Co., Inc. is dismissed with prejudice.
6. The parties shall bear their respective costs, including attorney's fees.
7. 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	= \$ 500.00
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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. Accordingly, the following fees are assessed:

1. Bear Stearns & Co., Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 4,500.00
Total Member Fees	= \$ 7,600.00

2. CIBC World Markets Corp. f/k/a CIBC Oppenheimer & Co., Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	= \$ 4,500.00
Total Member Fees	= \$ 7,600.00

Adjournment Fees

The following adjournment fees are assessed:

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| 1. Adjournment fee for the October 28, 2002 to November 5, 2002 hearing dates; Stipulated by the parties. Fee waived by Panel. | = \$ 0.00 |
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Forum Fees and Assessments

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

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

Pre-hearing conferences: February 4, 2003 1 session

April 8, 2003 1 session

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

Pre-hearing conferences: February 13, 2002 1 session

December 5, 2002 1 session

Twenty (20) Hearing sessions @ \$1,200.00/session = \$24,000.00

Hearings: May 12, 2003 2 sessions

May 13, 2003 2 sessions

May 14, 2003 2 sessions

May 15, 2003 2 sessions

May 16, 2003 1 session

May 28, 2003 2 sessions

May 29, 2003 2 sessions

May 30, 2003 1 session

July 14, 2003 2 sessions

July 15, 2003 2 sessions

July 21, 2003 2 sessions

Total Forum Fees = **\$27,300.00**

1. The Panel assessed \$13,650.00 of the forum fees to Claimant.
2. The Panel assessed \$6,825.00 of the forum fees to Respondent Bear Stearns & Co., Inc.
3. The Panel assessed \$6,825.00 of the forum fees to Respondent CIBC World Markets Corp. f/k/a CIBC Oppenheimer & Co., Inc.

Fee Summary

1. Claimant, Sanford Kellman, is charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	= \$13,650.00
Total Fees	= \$14,150.00
<u>Less payments</u>	= \$(1,700.00)
Balance Due NASD Dispute Resolution	= \$12,450.00

2. Respondent, Bear Stearns & Co., Inc., is charged with the following fees and costs:

Member Fees	= \$ 7,600.00
<u>Forum Fees</u>	= \$ 6,825.00
Total Fees	= \$14,425.00
<u>Less payments</u>	= \$(7,600.00)
Balance Due NASD Dispute Resolution	= \$ 6,825.00

3. Respondent, CIBC World Markets Corp. f/k/a CIBC Oppenheimer & Co., Inc., is charged with the following fees and costs:

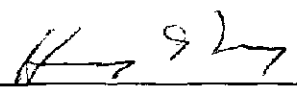
Member Fees	= \$ 7,600.00
<u>Forum Fees</u>	= \$ 6,825.00
Total Fees	= \$14,425.00
<u>Less payments</u>	= \$(7,600.00)
Balance Due NASD Dispute Resolution	= \$ 6,825.00

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.

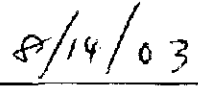
ARBITRATION PANEL

Henry G. Wong	-	Public Arbitrator, Presiding Chair
Helen Marinak Blohm, Esq.	-	Public Arbitrator
Edgar N. Stone	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Henry G. Wong
Chair, Public Arbitrator



Signature Date

Helen Marinak Blohm, Esq.
Public Arbitrator

Signature Date

Edgar N. Stone
Non-Public Arbitrator

Signature Date

Date of Service

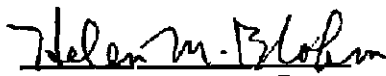
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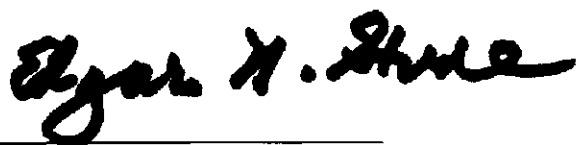
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