

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Barbara F. Vanderwilden (Claimant) v. Bear, Stearns & Co., Inc. (Respondent)

Case Number: #02-06560

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

Claimant Barbara F. Vanderwilden ("Vanderwilden") hereinafter referred to as "Claimant": Daniel W. Rice, Esq., Glynn, Landry, Harrington & Rice, LLP, formerly Harrington & Rice, Braintree, MA.

Respondent Bear, Stearns & Co. Inc. ("Bear Stearns") hereinafter referred to as "Respondent": Christopher P. Litterio, Esq., Ruberto, Israel & Weiner, P.C., Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: October 30, 2002.

First Amended Statement of Claim filed on or about: August 6, 2003.

Claimant signed the Uniform Submission Agreement: November 12, 2002.

Statement of Answer filed by Respondent on or about: March 3, 2003.

Response Respondent to the First Amended Statement of Claim filed on or about: August 20, 2003.

Respondent did not sign the Uniform Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: breach of contract; promissory estoppel; breach of the implied covenant of good faith and fair dealing; and unjust deprivation of compensation. In the Amended Statement of Claim, Claimant asserted the following causes of action: breach of contract; promissory estoppel; breach of the implied covenant of good faith and fair dealing; unjust deprivation of compensation; and negligent misrepresentation.

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

RELIEF REQUESTED

In the Statement of Claim and First Amended Statement of Claim, Claimant requested compensatory damages in the amount of \$291,809.00; punitive damages; costs, expenses, and attorneys' fees; and any other relief which she is entitled and the Arbitrator deems just and proper.

In its Answer and Answer to the First Amended Statement of Claim, Respondent that Claimant's claims be dismissed in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Respondent made a motion to dismiss. The Panel, with the agreement of the parties, did not rule on the motion, but ended early on the first day of hearing to allow Claimant an opportunity to file a countermotion the next morning. On the second day of hearing, both sides argued their motions. After due consideration, the Panel denied the motion to dismiss.

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, and 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. The claims of Claimant are hereby denied in their entirety and the case is dismissed.
2. Any and all relief not specifically addressed herein, including punitive damages, 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

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 events giving rise to the dispute. Accordingly, Bear, Stearns & Co., Inc. is a party.

Member surcharge = \$1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2,750.00

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:

One (1) Pre-hearing session with Panel @ \$1,125.00 = \$1,125.00

Pre-hearing conference: June 18, 2003 1 session

Four (4) Hearing sessions @ \$1,125.00 = \$4,500.00

Hearing Dates: January 13, 2004 2 sessions

January 14, 2004 2 sessions

Total Forum Fees = \$5,625.00

1. The Panel has assessed \$5,625.00 of the forum fees against Claimant.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$5,625.00

Total Fees = \$5,925.00

Less payments = \$1,425.00

Balance Due NASD Dispute Resolution = \$4,500.00

2. Respondent is solely liable for:

Member Fees = \$5,200.00

Total Fees = \$5,200.00

Less payments = \$5,200.00

Balance Due NASD Dispute Resolution = \$ 0.00

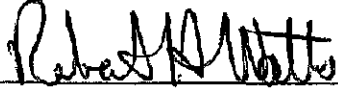
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Robert H. Watts	-	Non-Public Arbitrator, Presiding Chair
Carl P. Sherr	-	Non-Public Arbitrator
John W. Engelskirger	-	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, which is my award.



Robert H. Watts
Non-Public Arbitrator, Presiding Chairperson



Signature Date

Carl P. Sherr
Non-Public Arbitrator

Signature Date

John W. Engelskirger
Non-Public Arbitrator

Signature Date

February 06, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Carl P. Sherr	-	Non-Public Arbitrator
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Robert H. Watts
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Carl P. Sherr
Carl P. Sherr
Non-Public Arbitrator

1/27/04
Signature Date

John W. Engelskirger
Non-Public Arbitrator

Signature Date

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Robert H. Watts
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Carl P. Sherr
Non-Public Arbitrator

Signature Date



John W. Engelskirger
Non-Public Arbitrator

1/23/04

Signature Date

February 06, 2004

Date of Service (For NASD Dispute Resolution Rule 5237)