

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Khosrow Jamshidi, Claimant v. Bear Stearns & Co., Inc. and Albert E. Shultz, Respondents

Case Number: 03-02223

Hearing Site: San Francisco, California

Nature of the Dispute: Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

Christine McNamara, Esq.
Baldwin and McNamara
Menlo Park, California

For Respondents:

Nicholas P. Iavarone, Esq.
Bellows & Bellows, P.C.
Chicago, Illinois

CASE INFORMATION

Statement of Claim filed: March 25, 2003

Claimant's Motion to Dismiss Counterclaim of Respondent Albert E. Shultz filed: January 13, 2004

Claimant's Reply to Respondent Albert E. Shultz's Response to Claimant's Motion to Dismiss Counterclaim filed: March 15, 2004

Claimant's Uniform Submission Agreement signed: March 20, 2003

Joint Statement of Answer filed by Respondents Bear Stearns & Co., Inc. ("Bear Stearns") and Albert E. Shultz: June 27, 2003

Respondent Albert E. Shultz's Counterclaim filed: November 24, 2003

Respondent Albert E. Shultz's Response to Claimant's Motion to Dismiss Counterclaim filed: February 16, 2004

Respondent Bear Stearns' Uniform Submission Agreement signed: June 24, 2003

Respondent Albert E. Shultz's Uniform Submission Agreement signed: June 26, 2003

CASE SUMMARY

Claimant alleged that his account suffered damages because of numerous unsuitable purchases on margin. Claimant also alleged the following claims with respect to investments in various securities, including but not limited to investments in CTS Corp., Lucent, Applied Materials, Compaq Computer and MCI WorldCom: 1) Fraud – Intentional Misrepresentation, Violation of NASD Conduct Rules 2110 and 2120, NYSE Rule 405, Cal. Corp. Code Sections 25400 et seq., Section 12(2) of the 1933 Act, and Section 10(b) and Rule 10b-5 promulgated thereunder of the 1934 Act; 2) Negligent Misrepresentation; 3) Breach of Fiduciary Duty; 4) Failure to Supervise in Violation of NASD Conduct Rule 3010; 5) Respondeat Superior Liability; 6) Controlling Person Liability; 7) Breach of Contract; 8) Negligent Infliction of Emotional Distress; 9) Elder Abuse; and 10) Negligence.

Respondents denied Claimant's allegations of wrongdoing and denied any liability to Claimant.

In his Counterclaim, Respondent Albert E. Shultz alleged abuse of process, malicious prosecution and intentional infliction of emotional distress.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages of at least \$8,864,918.00 with interest thereon at the legal rate;
2. Costs and attorneys' fees;
3. Punitive damages;
4. Rescission of the disputed investments based on Respondents' violation of Section 25401 of the California Corporations Code pursuant to Cal. Corps. Code Section 25501; and
5. All other equitable relief and damages as shown at the hearing.

Respondents requested dismissal of Claimant's claims, attorney's fees, costs, and any other sanctions deemed appropriate by the Panel.

Respondent Shultz requested the following damages with respect to his Counterclaim:

1. Compensatory damages in the amount of \$10,000,000.00;
2. Punitive damages; and
3. Any additional relief deemed appropriate by the Panel.

OTHER ISSUES CONSIDERED AND DECIDED

On March 18, 2003, Claimant and Claimant's counsel 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 July 2, 2003, Respondents' counsel 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.

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

1. All claims by Claimant, including the claim for punitive damages, are dismissed.
2. On or about March 31, 2004, the Panel reviewed and considered the positions of the parties relative to Claimant Jamshidi's Motion to Dismiss Counterclaim of Respondent Albert E. Shultz. The Panel ruled that Claimant's Motion to Dismiss Counterclaim of Respondent Shultz is granted without prejudice to Mr. Shultz to request in writing to NASD Dispute Resolution within 30 days of his receipt of the Panel's decision in this matter to reinstate said Counterclaim. On April 27, 2005, the parties were advised of the Panel's ruling dismissing Claimant's claims and advised that Mr. Shultz was permitted to file his request to reinstate Counterclaim within 30 days of receipt of the Panel's ruling. Mr. Shultz did not file such request. Accordingly, all claims with respect to Mr. Shultz's Counterclaim are denied.
3. Respondents had requested that this matter be expunged from Albert E. Shultz's registration records maintained by the NASD Central Registration Depository. However, the Panel did not agree that any of the language pursuant to NASD Rule 2130 is applicable to this matter and denied the request for expungement.
4. Each party shall bear its own costs, including attorney's fees.
5. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD-DR received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$600.00
Counterclaim filing fee	= \$600.00

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, Bear Stearns is a party and the following fees are assessed:

Member Surcharge	= \$3,350.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,500.00</u>
Total Member Fees	= \$9,600.00

Adjournment Fees

The following adjournment fees are assessed:

The Panel waived the \$1,200.00 adjournment fee in connection with Claimant's request to adjourn the May 24-28, 2004, hearing dates.

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	=	\$450.00
Pre-hearing conference:	April 21, 2004	1 session
(3) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	=	\$3,600.00
Pre-hearing conferences:	October 8, 2003	1 session
	March 31, 2004	1 session
	May 24, 2004	1 session

(9) Hearing sessions @ \$1,200.00/session = \$10,800.00

Hearings:	February 28, 2005	2 sessions
	March 1, 2005	2 sessions
	March 2, 2005	2 sessions
	March 3, 2005	2 sessions
	March 4, 2005	1 session

Total Forum Fees = \$14,850.00

The Panel assessed the \$14,850.00 in forum fees jointly and severally to Respondents, Bear Stearns and Albert E. Shultz.

Administrative Costs

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

Claimant requested copies of audio transcripts	= \$ 240.00
Respondent Bear Stearns requested copies of audio transcripts	= \$ 240.00

Fee Summary

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

Initial Filing Fee	= \$ 600.00
<u>Administrative Costs</u>	= \$ 240.00
Total Fees	= \$ 840.00
<u>Less Payments</u>	= \$(2,800.00)
Refund Due Claimant	= \$(1,960.00)

2. Respondent Albert E. Shultz is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 600.00
<u>Less Payments</u>	= \$(600.00)
Balance Due NASD-DR	= \$ 0.00

3. Respondent Bear Stearns is charged with the following fees and costs:

Member Fees	= \$ 9,600.00
<u>Administrative Costs</u>	= \$ 240.00
Total Fees	= \$ 9,840.00
<u>Less Payments</u>	= \$(9,840.00)
Balance Due NASD-DR	= \$ 0.00

4. Respondents Bear Stearns and Albert E. Shultz are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 14,850.00
<u>Less Payments</u>	= \$(0.00)
Balance Due NASD-DR	= \$ 14,850.00

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

ARBITRATION PANEL

William Ziering, Esq.	-	Public Arbitrator, Presiding Chair
Anthony T. Ellis	-	Public Arbitrator
Paul D. Katerndahl, JD	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

William Ziering, Esq.
Chair, Public Arbitrator

Signature Date

Anthony T. Ellis
Public Arbitrator

Signature Date

Paul D. Katerndahl, JD
Non-Public Arbitrator

Signature Date

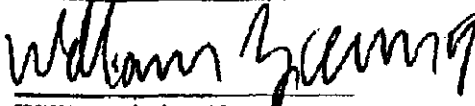
Date of Service

ARBITRATION PANEL

William Ziering, Esq.
Anthony T. Ellis
Paul D. Katerndahl, JD

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


William Ziering, Esq.
Chair, Public Arbitrator

6-2-05
Signature Date

Anthony T. Ellis
Public Arbitrator

Signature Date

Paul D. Katerndahl, JD
Non-Public Arbitrator

Signature Date

06-06-05
Date of Service

ARBITRATION PANEL

William Ziering, Esq.	-	Public Arbitrator, Presiding Chair
Anthony T. Ellis	-	Public Arbitrator
Paul D. Katerndahl, JD	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

William Ziering, Esq.
Chair, Public Arbitrator

Signature Date

A.T. Ellis
Anthony T. Ellis
Public Arbitrator

6/3/05
Signature Date

Paul D. Katerndahl, JD
Non-Public Arbitrator

Signature Date

06-06-05
Date of Service

ARBITRATION PANEL

William Ziering, Esq.	-	Public Arbitrator, Presiding Chair
Anthony T. Ellis	-	Public Arbitrator
Paul D. Katerndahl, JD	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

William Ziering, Esq.
Chair, Public Arbitrator

Signature Date

Anthony T. Ellis
Public Arbitrator

Signature Date



Paul D. Katerndahl, JD
Non-Public Arbitrator

6/7/05

Signature Date

Date of Service