

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Arthur S. Mishler, Claimant v. Bear, Stearns & Co. Inc., Respondent

Case Number: 04-01992

Hearing Site: Los Angeles, California

Nature of the Dispute: Associated Person v. Member

REPRESENTATION OF PARTIES

For Claimant:

Michael M. Gless, Esq.
Keesal, Young & Logan
Long Beach, California

For Respondent:

Dan Taub, Esq.
Bear, Stearns & Co. Inc.
New York, New York

CASE INFORMATION

Statement of Claim entitled "Petition of Arthur S. Mishler to Expunge CRD Record" filed:
March 23, 2004

Claimant's Uniform Submission Agreement signed: undated

Statement of Non-Opposition filed by Respondent: April 13, 2004

Respondent's Uniform Submission Agreement signed: April 12, 2004

CASE SUMMARY

Claimant alleged that he violated no sales practices with respect to the events leading to litigation entitled Dennis Wasser, Susan Carter v. Bear Stearns & Company, Inc., Arthur S. Mishler, Los Angeles Superior Court Case No. SC058391.

RELIEF REQUESTED

Claimant requested expungement of all reference to the underlying court case from his registration records maintained by the NASD Central Registration Depository ("CRD"), and Respondent did not oppose this request.

OTHER ISSUES CONSIDERED AND DECIDED

On March 23, 2004, Claimant filed a petition for expungement of his CRD record along with a Statement of Non-Opposition signed on behalf of Dennis Wasser and Susan Carter, the plaintiffs in the underlying Los Angeles Superior Court case. Respondent Bear, Stearns & Co. Inc. then filed their Statement of Non-Opposition to Claimant's petition on April 13, 2004. August 2, 2004, Claimant and Respondent filed a stipulation agreeing that a single, non-public arbitrator may be selected to hear Claimant's petition and that, with the approval of the arbitrator, an Award may be entered by the NASD granting Claimant's petition for expungement.

On July 14, 2004, 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.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

The parties agreed that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings and testimony, the Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) The Panel recommends the expungement of all reference to the litigation entitled Dennis Wasser, Susan Carter v. Bear Stearns & Company, Inc., Arthur S. Mishler, Los Angeles Superior Court Case No. SC058391, from Claimant Arthur Mishler's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Arthur Mishler must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) 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	= \$ 250.00
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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 member firm Bear, Stearns & Co. Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,500.00
<u>Pre-Hearing Process Fee</u>	<u>= \$ 750.00</u>
Total Member Fees	= \$ 2,250.00

Forum Fees and Assessments

The Arbitrator 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 Panel. The following fees are assessed:

1 Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: September 24, 2004 1 session	

Total Forum Fees	= \$ 450.00
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1. The Arbitrator assessed \$ 225.00 of the forum fees to Claimant.
2. The Arbitrator assessed \$ 225.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 225.00
Total Fees	= \$ 475.00
<u>Less payments</u>	= \$(1,500.00)
Refund Due Claimant	= \$(1,025.00)

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

Member Fees	= \$ 2,250.00
<u>Forum Fees</u>	= \$ 225.00
Total Fees	= \$ 2,475.00
<u>Less payments</u>	= \$(2,250.00)
Balance Due NASD Dispute Resolution	= \$ 225.00

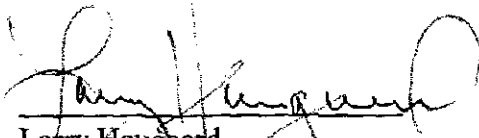
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATOR

Larry Haugaard

Non-Public Arbitrator, Presiding Chair

Arbitrator's Signature


Larry Haugaard
Non-Public Arbitrator

9-29-04
Signature Date

9/29/04
Date of Service