

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:
Henry M. Korngut, Claimant v. Bear, Stearns & Co. Inc., Respondent

Case Number: 05-03067

Hearing Site: San Francisco, California

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant:

Frank F. Sommers, IV, Esq.
Sommers & Schwartz LLP
San Francisco, California

For Respondent:

Gilbert R. Serota, Esq.
Howard Rice Nemerovski
Canady Falk & Rabkin
San Francisco, California

CASE INFORMATION

Statement of Claim filed: June 13, 2005

Claimant's Arbitration Brief filed: July 21, 2006

Claimant's Uniform Submission Agreement signed: June 10, 2005

Statement of Answer of Respondent Bear, Stearns & Co. Inc. ("Bear Stearns") filed:
September 6, 2005

Respondent's Pre-Hearing Brief filed: July 20, 2006

CASE SUMMARY

Claimant alleged the following claims with respect to his employment with Bear Stearns:

- A. For the sum of approximately \$600,000.00 as an unpaid referral bonus due on account of fees earned by Respondent in connection with a financing transaction performed for Claimant's client, Itron, whom Claimant referred to Bear Stearns;

- B. For an unpaid referral bonus of approximately \$350,000.00 on account of the financing obtained for Stereotaxis, Inc., which financing Claimant was instrumental in causing to occur;
- C. For options on 1,544 shares of Bear Stearns stock that Claimant lost when he as constructively terminated by Bear Stearns; and
- D. For the sum of approximately \$50,000.00 in various fees, commissions, overcharges and other payments due Claimant that were unpaid by Bear Stearns when it constructively terminated Claimant.

Respondent denied Claimant's allegations of wrongdoing and denied any liability to Claimant. Respondent also asserted affirmative defenses.

RELIEF REQUESTED

Claimant requested damages of approximately \$1,000,000.00 plus options on 1,544 shares of Bear Stearns stock, interest, costs and attorneys fees.

Respondent requested an award dismissing all claims and assessing all costs against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD Dispute Resolution ("NASD-DR") a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD-DR Code of Arbitration Procedure ("the Code") and, having answered Claimant's Claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

During the hearing, the parties advised the Panel that all claims other than compensation for the Stereotaxis transaction and the Itron transaction were excluded from the scope of the arbitration. On or about August 3, 2006, Claimant's Counsel advised that all claims set out in the Statement of Claim other than the claims for Stereotaxis and Itron are dismissed with prejudice pursuant to the terms of the parties' settlement agreement.

During the hearing, the Panel considered the positions of the parties relative to Respondent's Motion to Exclude Expert Testimony of Brian Wong. The Panel denied the Motion.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

The Claimant's Motion to Reopen Hearing dated August 2, 2006, is denied.

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) All claims by Claimant are dismissed.
- 2) Each party shall bear its own costs, including attorney's fees.
- 3) 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	= \$375.00
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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, Bear Stearns is a party and the following fees are assessed:

Member Surcharge	= \$2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$4,000.00</u>
Total Member Fees	= \$7,000.00

Adjournment Fees

The following adjournment fees are assessed:

The Panel granted the parties' joint request to postpone the May 3-5, 2006, hearing dates and determined that the parties shall split the \$1,200.00 postponement fee as follows: 50% to Claimant and 50% to Respondent.

Forum Fees and Assessments

The Panel assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

(2) Decisions on discovery-related motions on the papers
with a single arbitrator @ \$200.00 per decision = \$400.00
Claimant submitted two discovery-related motions

(1) Pre-hearing conference session with the Panel
@ \$1,200.00/session = \$1,200.00
Pre-hearing conference: December 7, 2005 1 session

(5) Hearing sessions @ \$1,200.00/session = \$6,000.00
Hearings: July 26, 2006 1 session
July 27, 2006 2 sessions
July 28, 2006 2 sessions

Total Forum Fees = \$7,600.00

The Panel assessed \$3,800.00 of the forum fees to Claimant.

The Panel assessed \$3,800.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 3,800.00
<hr/> Total Fees	= \$ 4,775.00
<u>Less Payments</u>	= \$(1,575.00)
Balance Due NASD-DR	= \$ 3,200.00

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

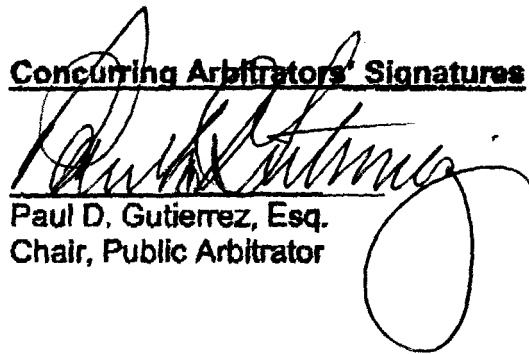
Member Fees	= \$ 7,000.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 3,800.00
<hr/> Total Fees	= \$11,400.00
<u>Less Payments</u>	= \$(7,000.00)
Balance Due NASD-DR	= \$ 4,400.00

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

Paul D. Gutierrez, Esq.	-	Public Arbitrator, Presiding Chair
Gary H. Kahn	-	Public Arbitrator
Joseph H. Sturdivant	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Paul D. Gutierrez, Esq.
Chair, Public Arbitrator

August 17, 2006
Signature Date

Gary H. Kahn
Public Arbitrator

Signature Date

Joseph H. Sturdivant
Non-Public Arbitrator

Signature Date

08/29/06
Date of Service

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ARBITRATION PANEL

Paul D. Gutierrez, Esq.	-	Public Arbitrator, Presiding Chair
Gary H. Kahn	-	Public Arbitrator
Joseph H. Sturdivant	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Paul D. Gutierrez, Esq.
Chair, Public Arbitrator

Signature Date



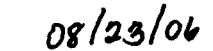
Gary H. Kahn
Public Arbitrator



8/17/06
Signature Date

Joseph H. Sturdivant
Non-Public Arbitrator

Signature Date



08/23/06
Date of Service

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

Paul D. Gutierrez, Esq.	-	Public Arbitrator, Presiding Chair
Gary H. Kahn	-	Public Arbitrator
Joseph H. Sturdivant	-	Non-Public Arbitrator

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Paul D. Gutierrez, Esq.
Chair, Public Arbitrator

Signature Date

Gary H. Kahn
Public Arbitrator

Signature Date

Joseph H. Sturdivant
Non-Public Arbitrator

Signature Date

08/23/06

Date of Service