

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Elser & Co. (Claimant) vs. Bear Stearns Securities Corp. (Respondent)

Case Number: 05-05741

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

Claimant Elser & Co. hereinafter referred to as "Claimant": Jacqueline I. Meyer, Esq., Hodgson Russ LLP, New York, NY.

Respondent Bear Stearns Securities Corp. hereinafter referred to as "Respondent": Charles M. O'Rourke, Esq., Charles M. O'Rourke Attorney At Law, Woodbury, NY. Previously represented by Jessica M. Phillips, Esq., and Melissa Devack, Esq., Bear Stearns Securities Corp., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: November 9, 2005.

Claimant signed the Uniform Submission Agreement: October 13, 2005.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: February 17, 2006.

Respondent signed the Uniform Submission Agreement: February 27, 2006.

CASE SUMMARY

Claimant asserted the following causes of action: violation of SEC and NASD Rules, breach of contract, and breach of fiduciary duty. The causes of action relate to AES Drax Energy bonds.

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

RELIEF REQUESTED

Claimant requested compensatory damages in an amount not less than \$70,000.00 plus interest, attorneys' fees, costs, and such other and additional relief as the Panel may deem appropriate.

Respondent requested dismissal of the Statement of Claim in its entirety, costs, attorneys' fees, and for such other relief as the Panel deems proper.

OTHER ISSUES CONSIDERED AND DECIDED

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, the evidence and testimony presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety.
2. Any and all relief not specifically addressed herein 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	= \$ 225.00
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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 Securities Corp. is a party.

Member Surcharge	= \$ 1,100.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 1,700.00

Forum Fees and Assessments

The Panel has 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 Panel, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
Pre-hearing conferences: September 8, 2006	1 session
September 25, 2006	1 session
Two (2) Pre-hearing sessions with Panel @ \$750.00	= \$ 1,500.00
Pre-hearing conferences: April 2, 2006	1 session
May 3, 2006	1 session

Eight (8) Hearing sessions with Panel @ \$750.00 = \$ 6,000.00

Hearing Dates:	November 1, 2006	2 sessions
	November 2, 2006	2 sessions
	November 20, 2006	2 sessions
	November 21, 2006	2 sessions

Total Forum Fees = \$ 8,400.00

1. The Panel has assessed \$4,200.00 of the forum fees to Claimant.
2. The Panel has assessed \$4,200.00 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

1. Respondent requested copies of hearing tapes = \$ 120.00

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 4,200.00
Total Fees	= \$ 4,425.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 2,625.00

2. Respondent is solely liable for:

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 4,200.00
Administrative Costs	= \$ 120.00
Total Fees	= \$ 7,870.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 4,320.00

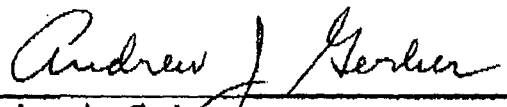
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Andrew Jay Gerber	-	Public Arbitrator, Presiding Chairperson
Robert E. Tobin	-	Public Arbitrator
Barry Quint	-	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.



Andrew Jay Gerber
Public Arbitrator, Presiding Chairperson

11/22/06
Signature Date

Robert E. Tobin
Public Arbitrator

Signature Date

Barry Quint
Non-Public Arbitrator

Signature Date

November 29, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL


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Robert E. Tobin	-	Public Arbitrator
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Andrew Jay Gerber
Public Arbitrator, Presiding Chairperson

Signature Date



Robert E. Tobin
Public Arbitrator

11-23-06

Signature Date

Barry Quint
Non-Public Arbitrator

Signature Date

November 29, 2006

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Andrew Jay Gerber
Public Arbitrator, Presiding Chairperson

Signature Date

Robert E. Tobin
Public Arbitrator

Signature Date



Barry Quint
Non-Public Arbitrator

11-29-06

Signature Date

November 29, 2006
Date of Service (For NASD Dispute Resolution use only)