

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Raymond Brom, Ann J. Brom and
Frances Mae Brom

Claimant(s)

vs.

Creative Securities Corp.,
Dan Giedt and Bear Stearns

Respondent(s)

AWARD

CASE NO. 87-00335

SUMMARY OF ISSUES

This case was filed on March 12, 1987.

Claimants allege that Respondents Creative Securities Corporation and Dan Giedt deceived, misrepresented and induced Claimants to invest their life savings in Ophthalmic International Resources, Ltd. stock and National Gold stock which they characterize as unsuitable and highly speculative. Claimants also allege that Ophthalmic International Resources was not qualified for sale in California. Claimants also allege that Respondent Bear Stearns & Co. owed a duty to Claimants to monitor Respondents representations to the Claimants. Respondent Creative Securities denies the allegations. Respondent Giedt denies the allegations. Respondent Bear Stearns & Co. seeks dismissal on the ground Claimants' state no cognizable claims against Bear Stearns which was acting solely as the clearing agent for Creative Securities.

DAMAGES AND RELIEF REQUESTED

Claimants seek the return of their original investment of \$59,740.00 plus interest, attorneys' fees and punitive damages. Respondent Giedt requests attorneys' fees from the Claimants. Respondent Bear Stearns seeks indemnification and contribution pursuant to the Clearing Agreement from Respondents in the event the panel finds Bear Stearns liable for damages.

DAMAGES AND RELIEF AWARDED

On January 31, 1989 and June 19, 1989 in San Francisco, California, the undersigned arbitrators heard in two sessions the controversy between the parties as set forth in submissions to arbitration signed by Claimants Raymond Brom, Ann Brom and Frances Brom on February 10, 1987 and by Respondents Creative Securities Corp. on April 30, 1987, by Respondent Dan Giedt on June 1, 1987 and by Respondent Bear Stearns on April 21, 1989. The panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. On June 19, 1989, the panel heard oral argument on Respondent Bear

Stearns' motion to dismiss it as a party respondent. The panel granted the motion to dismiss with prejudice.

2. Respondents Creative Securities and Dan Giedt were notified of the hearing date and advised the panel that they would not appear at the June 19, 1989 hearing and would rest on their pleadings.

3. Respondent Creative Securities is solely liable for and shall pay to the Claimants the sum of \$1,215.49 representing reimbursement of travel costs for the January 31, 1989 hearing.

4. Respondents Creative Securities and Dan Giedt are jointly and severally liable for and shall pay to the Claimants Raymond Brom and Ann Brom the sum of \$51,420.00.

5. Respondents Creative Securities and Dan Giedt are jointly and severally liable and shall pay to the Claimants Raymond Brom and Ann Brom the sum of \$26,695.00 representing interest.

6. Respondents Creative Securities and Dan Giedt are jointly and severally liable for and shall pay to Claimant Frances Brom the sum of \$8,320.00.

7. Respondents Creative Securities and Dan Giedt are jointly and severally liable and shall pay to Claimant Frances Brom the sum of \$4,543.00 representing interest.

8. Claimants shall return to Respondents Creative Securities and Dan Giedt stock certificates representing ownership of 91,500 shares of Ophthalmic International Resources Ltd., and 2,000 shares of National Gold. Said stock certificates shall be endorsed over to Respondents Creative Securities free and clear of all encumbrances prior to or simultaneous to Respondents' paying Claimants the total sum of \$59,740.00.

9. Absent any evidence of actual costs, Respondent Bear Stearns' request for indemnification of costs and attorneys' fees from Respondents Creative Securities and Dan Giedt is denied with prejudice.

10. Respondents Creative Securities and Dan Giedt are jointly and severally liable and shall pay to the Claimants the sum of \$5,000.00 representing punitive damages under California law.

11. The parties shall each bear their respective costs, except the costs awarded in paragraph 3.

12. Pursuant to Section 43 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure, the NASD shall retain the filing fee previously deposited by the Claimant.

13. Pursuant to Section 43 of the National Association of Securities Dealers Code of Arbitration Procedure, the panel assesses \$1,000.00 in fees as follows:

1. Respondents Creative Securities and Dan Giedt are jointly severally liable and shall pay to the Claimants the sum of \$500.00 representing the filing fee previously paid by Claimants.
2. Respondents Creative Securities and Dan Giedt are jointly and severally liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$500.00 representing forum fees.

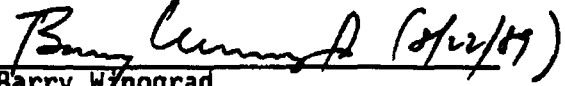
OTHER ISSUES

1. On January 19, 1989, the hearing was continued subject to Creative Securities agreement to pay all reasonable travel expenses incurred by Claimants. Claimants have submitted reasonable expenses of \$1,251.49.

2. Respondent Bear Stearns filed a motion to dismiss the claims against it on the grounds that it was a clearing agent for Creative Securities; had fully disclosed this relationship to the Claimants; that it had no direct contact with Claimants; and did not owe any fiduciary duty to the Claimants.

ARBITRATORS CONCURRING

DATE SERVED: 08/25/89


Barry Winograd

William A. Hage

Fernando Garcia