

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Among

Sloate, Weisman, Murray & Co., Inc.,  
and Bear Stearns & Co., Inc.,

Claimants

vs.

Eight Brookwood Fund,

Respondent  
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Case #88-00835

Award

CASE SUMMARY

Claimants, alleged that Respondent, fraudulently promised to meet the margin call for 200 puts OEX November 300 before the opening of the market on October 19, 1987. Had the Claimants known that Respondent would not meet the margin call, they would have bought in the account sooner and minimized the deficit. Kenneth Stein, acting on behalf of the Respondent, maintains that he was bought in without prior notification from the Claimants. He further maintains that he had sufficient funds to cover the margin call and if he had been notified that the account was under maintained he could have satisfied the maintenance call without the Claimants having to liquidate Respondent's account.

RELIEF REQUESTED

Claimants, requested damages of \$1,849,183.00, for the debit balance left in Respondent's account. Respondent requested dismissal of the claim and damages of \$1,500,000.00, which is the profit that the positions in the options would have yielded if permitted to continue to maturity date and not liquidated by the Claimants on October 19, 1987.

AWARD

On December 13 and 14, 1988 and June 13 and 14, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimants, Sloate, Weisman, Murray & Co., Inc. and Bear Stearns & Co., Inc., on March 28, 1988 and March 30, 1988 respectively, and by the Respondent, Eight Brookwood Fund, on June 6, 1988.

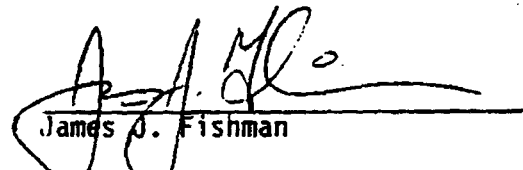
The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

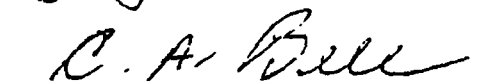
- A. Respondent, Eight Brookwood Fund, shall be liable for and shall pay to the Claimant, Sloate, Weisman, Murray & Co., Inc., the sum of One Million Eight Hundred Forty-Nine Thousand One Hundred Eighty-Three Dollars and No Cents (\$1,849,183.00).
- B. The counterclaim of the Respondent against the Claimants shall be and hereby is dismissed in all respects.
- C. The parties shall each bear their respective costs, including attorneys' fees;
- D. Claimant, Sloate, Weisman, Murray & Co., Inc., is hereby assessed forum fees in the amount of \$6,000.00 payable to the NASD, Inc. through its staff administrator in accordance with Section 43 of the Code of Arbitration Procedure.


ARBITRATORS CONCURRING

  
W. Cullen MacDonald, Esq.

  
George R. Freund

  
James J. Fishman

  
C. Anthony Bell

  
Louis Proyect, Esq.

Dated: July 11, 1989