

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of Arbitration Between
BEAR STEARNS & CO., INC. Claimant
v.
DONALD G. ZEIER Respondent

NASD No. 88-01749

CASE SUMMARY

Bear Stearns & Co., Inc. ("Claimant") alleged that Donald G. Zeier ("Respondent") is liable to the Claimant for the debit balance which exists in the Respondent's account.

Respondent denied the Claimant's claims. The Respondent alleged that claimant's registered representative recommended to the respondents that he open certain option positions and extend his margin position. Respondent counterclaimed alleging that such recommendations were unsuitable and constituted a breach of contract, breach of fiduciary duty, negligence, violation of 10(b) of the Securities and Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, and a violation of the Illinois Consumer Act.

Claimant denied the counterclaims of the Respondent.

RELIEF REQUESTED

Claimant requested actual damages in the amount of Eighty-Six Thousand Eight Hundred Seven Dollars and No Cents (\$86,807.00), attorneys' fees, and costs. Respondent requested actual damages in the amount of Eight Hundred Sixty-Seven Thousand Nine Hundred Eighty Six Dollars and Eighty Cents (\$867,986.80), punitive damages in the amount of Five Hundred Thousand Dollars (\$500,000.00), prejudgment interest, attorneys' fees, and costs.

AWARD

On May 26, 1988, the Claimant filed its claim with the National Association of Securities Dealers, Inc. ("NASD"). On November 8, 9, 20, 21 and 28, 1989 the undersigned arbitrators heard the controversy between the parties as set forth in the submissions to arbitrators signed on May 25, 1988 by the Claimant and by Donald G. Zeier on July 28, 1988. The hearing was held in ten sessions in Chicago, Illinois.

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

1. Donald G. Zeier is liable for and shall pay to Bear Stearns & Co., Inc. Sixty Nine Thousand Five Hundred and Forty-Seven Dollars and Thirty-Four Cents (\$69,547.34);

2. The counterclaims asserted by the Respondent against the Claimant are hereby dismissed in their entirety;

3. The parties shall bear their own costs including attorneys' fees;

4. Pursuant to Section 43 of the NASD Code of Arbitration Procedure the Claimant shall be refunded its filing fee of \$500.00 and the Respondent is hereby assessed and shall pay to the NASD through its staff counsel forum fees of \$5,000.00.

Arbitrators Concurring

Dated: December 28, 1989

/S/ Arthur Medow
Presiding Chair

Dated: January 2, 1990

/S/ Arnold Pangiucci, Esq.

Dated: January 3, 1990

/S/ John W. Blenke, Esq.