

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

R. STEVEN LUTTERBACH

Claimant

and

BEAR STEARNS & CO., INC.

Respondent

CASE NO. 88-03634

CASE SUMMARY

In a claim filed with the NASD on or about November 21, 1988, the Claimant R. Steven Lutterbach ("Claimant") alleged that Respondent Bear Stearns & Co., Inc. ("Respondent") improperly placed restrictions upon Claimant's options trading account which resulted in losses to Claimant in the amount of \$210,000.00.

In its answer Respondent stated that claimant's options trading account was restricted to closing transactions only and that the losses incurred were the result of the trading strategy employed by Claimant. Respondent further claims that it has the ability to refuse to deal with customers or to restrict the dealings of its customers to ensure against substantial losses.

RELIEF REQUESTED

The Claimant sought the recovery of \$400,000.00 plus interest. The Respondent requested that the claim be dismissed and that Respondent be awarded its costs, fees and expenses.

OTHER ISSUES

During the hearing, Claimant requested that the Statement of Claim be amended on its face to reflect that Claimant was damaged in the amount of \$216,980.70. Respondent did not object and the panel granted the requested amendment pursuant to Section 39(b) of the Code of Arbitration Procedure.

Claimant also requested that the Statement of Claim be amended on its face to conform to the evidence presented to include allegations of lack of supervision by Bear Stearns & Co., Inc. which was objected to by Respondent. The panel granted the motion pursuant to Section 39(b) of the Code of Arbitration Procedure.

28-890

AWARD

On Tuesday, October 31, 1989 and Tuesday, February 6, 1990 during a hearing lasting five(5) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on November 4, 1988 by Claimant R. Steven Lutterbach, on January 18, 1989 by Mark E. Lehman on behalf of Respondent Bear Stearns & Co., Inc.

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. The Statement of Claim is hereby denied and dismissed in its entirety;
2. The parties shall each bear their respective costs, expenses and attorney's fees incurred in this matter; and
3. Pursuant to Section 43(b) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain as forum fees, the \$750.00 filing fee previously deposited with the NASD by the Claimant. The Claimant is further assessed and shall pay to the NASD as additional forum fees, the sum of \$1,875.00. Respondent is assessed and shall pay to the NASD as additional forum fees, the sum of \$1,875.00.

BY THE PANEL

Dated: <u>February 6, 1990</u>	/S/ <u>William M. Getzoff, Esq.</u> <u>Presiding Chair</u>
Dated: <u>February 6, 1990</u>	/S/ <u>Mr. Nelson H. Layman</u>
Dated: <u>February 6, 1990</u>	/S/ <u>Mr. Frederic M. Rizzo</u>