

NATIONAL ASSOCIATION OF SECURITIES DEALERS

-----  
In the Matter of the Arbitration Between :  
:   
David S. Gelb : AWARD  
:   
Claimant : #88-03823  
vs. :   
:   
Bear, Stearns & Co., Inc. :   
Kenneth S. Ispass :   
Robert Abbott :   
Respondents :  
-----

Case Summary

Claimant David S. Gelb (hereinafter "Claimant") alleged that when his account was transferred to Respondent Bear, Stearns & Co., Inc. (hereinafter "Bear Stearns") his account transferred to Respondent Robert Abbott (hereinafter "Abbott") from Kenneth S. Ispass (hereinafter "Ispass"). Claimant alleged that his 649 shares of Marine Midland Bank Common Stock (hereinafter "MMB") were tendered at \$83.00 per share without Claimant's knowledge. Claimant alleged that Respondents failed to provide him with confirmation or other notification of this transaction and that Claimant was unaware of the merger of MMB until January of 1988 when he received his December 1987 monthly account statement. Claimant alleged that had he known of the gains from the sale of MMB in 1987, he would have sold securities upon which he had an unrealized loss thereby offsetting any negative tax implications from the MMB transaction. Claimant alleged that due to Respondents tender of MMB, he unnecessarily incurred federal income taxes as well as New York State and New York City income taxes.

Respondent Ispass categorically denied all allegations in Claimant's claim and specifically maintained that Claimant has no cause of against him. Respondents Bear, Stearns and Abbott categorically denied all allegations made in Claimant's claim. Respondents Bear, Stearns and Abbott further maintained that Claimant had notice of the MMB merger and that Claimant was sent merger documents. Respondents maintained that they are not responsible to Claimant for any tax consequences associated with the merger.

Relief Requested

Claimant seeks recovery of his losses of \$12,906.00; plus interest from April 15, 1988. Respondents request that the claim of the Claimant be denied in its entirety and that the costs of this proceeding, including Respondents attorney's fees, be assessed against the Claimant.

Award

On October 3 and October 26, 1989, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant David S. Gelb on December 9, 1988, by Respondent Bear, Stearns & Co., Inc. on March 2, 1989, by Respondent Robert Abbott on March 2, 1989 and by Respondent Kenneth S. Ispass on March 10, 1989. The initial claim was filed on December 13, 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:

1. That Claimant's claims are dismissed in their entirety.
2. The parties shall each bear their respective costs including attorney fees.
3. Pursuant to Section 43 of the Code of Arbitration Procedure, forum fees for the October 3, 1989 double hearing session and the October 26, 1989 single hearing session shall be equally assessed against the Claimant and the Respondents, such that the amount due from the Claimant as a forum fee is \$600.00. However, Claimant is entitled to offset this fee by his \$400.00 filing fee previously deposited. Thus, the amount due from the Claimant as a forum fee is \$200.00. The Respondents Bear Stearns, Ispass and Abbott are jointly and severally assessed forum fees in the amount of \$600.00. All forum fees shall be made payable to the National Association of Securities Dealers, Inc.

CONCURRING ARBITRATORS

/s/  
Robert Seaman

/s/  
Arnold L. Goren

/s/  
Lewis Silver