

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

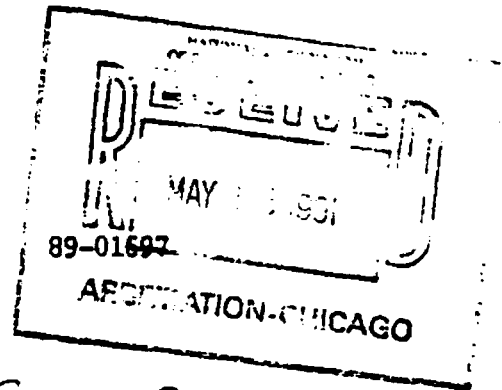
In the Matter of the Arbitration Between

Name of Claimant(s)

Horace M. Jones

Name of Respondent(s)

Bear Stearns & Company
George B. Peters
Hill Feinberg



CASE SUMMARY

In a Statement of Claim initially filed with the National Association of Securities Dealers, Inc. ("NASD") on June 9, 1989, and as later amended on December 17, 1990, Claimant Horace M. Jones alleged as follows:

1. Respondent misrepresented and failed to disclose material facts regarding Claimant's margin account and his position in Western Digital Corporation common stock;
2. Respondents failed to handle the account in accordance with Claimant's instructions to liquidate the Western Digital position so as to not jeopardize various municipal bond positions in the account; and,
3. Respondents failed to diversify the Claimant's portfolio so as to reduce the risk of loss from a decline in value of the over concentration in Western Digital Stock.

Claimant alleged the above actions resulted in margin calls in October of 1987, which substantially reduced the equity in the margin account. Respondents allegedly violated state and federal securities laws, committed common law fraud and negligence, breached their fiduciary duty to Claimant, and breached the contractual provisions of the customer agreement executed by the parties. In addition, Claimants alleged Respondents Bear Stearns and Peters violated Federal RICO law [18 U.S.C. Sec. 1962(c)].

In a Statement of Answer filed with the NASD on August 11, 1989, and as amended on February 19, 1991, Respondents Bear, Stearns and Company, Inc., George B. Peters and Hill Fernbug denied the material statements made in the original and amended Statement of Claim, stating that the decline in value of Claimant's account was caused by the October 19, 1987 market collapse and Claimant's belief in a market rebound. Respondents further alleged the following affirmative defenses:

Date Served: 5-14-91

1. Claimants failed to allege facts required to support the Statement of Claim;
2. The claims for breach of fiduciary duty and negligence are deficient because there was no fiduciary relationship and duty;
3. The claims are barred by the equitable doctrine of laches and the applicable statute of limitations;
4. No material information was withheld from Claimant;
5. By his acts and conduct, Claimant waived any complaint, is estopped from complaining and has ratified the Respondents' conduct;
6. Claimant was negligent in the managing of his portfolio;
7. Claimant failed to mitigate his losses; and,
8. Claimant failed to allege a viable RICO claim.

RELIEF REQUESTED

Claimant Horace M. Jones requested entry of an award against Respondents Bear Stearns and Company, Inc., George B. Peters and Hill Feinberg in the amount of \$843,736.00, plus punitive damages, interest, costs, and reasonable attorney's fees pursuant to Article 581-33 of the Texas Securities Act. In addition, Claimant has requested treble damages in excess of \$1,000,000.00 from Respondents Bear, Stearns and Peters pursuant to the Federal RICO law [18 U.S.C. Sec. 1964(c)].

Respondents Bear, Stearns & Company, Inc. George B. Peters and Hill Feinberg requested entry of an award dismissing and denying the Statement of Claim in its entirety and awarding them their costs, fees, and expenses.

OTHER ISSUES

During the hearing convened on March 6, 1991, Claimants reduced the request for actual damages from \$843,736.00 to \$473,000.00 based on the testimony of their expert witness. In addition, the arbitrators requested that Respondents provide the panel with additional documentary evidence by March 15, 1991.

On February 12, 1991, a pre-hearing conference was held by telephone to resolve discovery disputes. Presiding over the pre-hearing conference was the panel chairman, Michael McGown.

PROCEDURAL MATTERS

On March 6 and 7, 1991 in Houston, Texas during a hearing lasting a total of four sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on June

7, 1989 by Claimant Horace M. Jones, on August 9, 1989 by Mark E. Lehman on behalf of Respondent Bear, Stearns & Company, Inc., on August 8, 1989 by Respondent George B. Peters, and on August 8, 1989 by Respondent Hill Feinberg.

The parties have agreed that the Award in the matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original remains on file with the NASD.

AWARD

The arbitration panel, having considered the pleadings, the trial briefs, the testimony, the evidence presented at the hearing, and the post-hearing submissions, has decided in full and final resolution of the issues submitted for determinations follows:

1. The Statement of Claim is hereby dismissed and denied in its entirety;
2. Parties shall each bear their own costs, including attorney's fees, except for those specifically enumerated herein;
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$250.00 non-refundable claim filing fee and the \$750.00 hearing session deposit previously deposited with the NASD by the Claimant Horace M. Jones. In addition, Claimant Horace M. Jones is liable for and shall pay to the NASD additional forum fees in the amount of \$3,250.00.

Dated:

6 May 1991

Michael E. McGown
Michael E. McGown
Presiding Chair

John W. Field

Ronald R. Simpson
Ronald R. Simpson
Industry Arbitrator

89-1697

7, 1989 by Claimant Horace M. Jones, on August 9, 1989 by Mark E. Lehman on behalf of Respondent Bear, Stearns & Company, Inc., on August 8, 1989 by Respondent George B. Peters, and on August 8, 1989 by Respondent Hill Feinberg.

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Dated:

May 6, 1991

Michael E. McGown
Presiding Chair

John W. Field

Ronald R. Simpson
Industry Arbitrator

79-1697

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Dated:

MAY 5, 1991

Michael E. McGown
Presiding Chair

John W. Field
John W. Field

Ronald R. Simpson
Industry Arbitrator