



N.A.S.D. AWARD

Arbitration

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, New York 10004

In the Matter of the Arbitration Between

Name of Claimant(s)

William H. Corcoran

89-03188

Name of Respondent(s)

Bear Stearns & Company
Rodecker & Company
Steven Babiuk

REPRESENTATION

For Claimant: Anthony V. Trogan of Weisman, Trogan, Young & Schloss, P.C.

For Respondent: Fred H. Keidan of Fitzgerald, Hodgman, Cox, Cawthorne & McMahon.

CASE INFORMATION

Statement of Claim filed: 11-13-89.

Claimant's Submission Agreement signed on: 11-3-89.

Joint Statement of Answer of all Respondents filed: 12-21-89.

Respondent, Bear Stearns & Co.'s Submission Agreement and Corporate Acknowledgment signed on: 12-19-89 by Mark E. Lehman on behalf of the firm.

Respondent, Rodecker & Co.'s Submission Agreement and Corporate Acknowledgment signed: 12-19-89 by Arthur D. Rodecker on behalf of the firm.

HEARING INFORMATION

Hearing Date: October 4, 1991

Number of Sessions: Three (3)

Hearing Location: Southfield, MI

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CASE SUMMARY

Claimant, William Corcoran alleged that he was an unsophisticated investor unsuitable to trade in options when he was urged by Respondent, Steven Babiuk ("Babiuk") to open an options account with his firm Rodecker & Company and Bear Stearns in August of 1987. Claimant alleged that Respondent, Babiuk, neither informed him of the possibility of margin calls, margin interest charges nor other negative aspects of margin trading when he opened the account. Claimant further alleged that he executed a full trading authorization so that the account could be traded without prior approval because of Claimant's unavailability due to the nature of his work (Police Lieutenant). Claimant alleged that despite his oral instructions not to churn his account or to put a substantial portion of his account at risk Respondent, Babiuk, churned his account, breached his fiduciary duty toward Claimant by failing to disclose his inexperience, by failing to manage his account in accordance with Claimant's stated objectives, by failing to execute a purchase order and by neglecting to provide Claimant with a required disclosure pamphlet. Claimant contended that Respondents, Rodecker & Co. and Bear Stearns & Co. Inc., are culpable for failure to supervise their employee, Babiuk.

Respondents alleged that Claimant is a very intelligent man who did have some experience in prior trading and investments and that Claimant was aware of Babiuk's inexperience. Respondents maintained that Claimant was kept informed of the status of his investments at regular lengthy meetings, that Claimant signed a document stating that he received a pamphlet. Respondents also claimed waiver and estoppel.

RELIEF REQUESTED

Claimant requested damages for out-of-pocket losses in the amount of \$27,735.00; dividends in the amount of \$6,500.00; Interest at the rate of 12% from August 1987; return of his filing fee; Attorneys' fees -20-25 hrs. @ \$175. per hr.

Respondents requested dismissal of the Claim and that they be awarded costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this 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 originals remain on file with the NASD.

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AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Bear Stearns & Co., Inc., Rodecker & Co. and Steven Babiuk are jointly and severally liable and shall pay to Claimant, William H. Corcoran the sum of Twenty Seven Thousand Nine Hundred Eighty Five Dollars and Twenty Five Cents (\$27,985.25) including interest;
2. Respondents, Bear Stearns & Co., Inc., Rodecker & Co. and Steven Babiuk are jointly and severally liable and shall pay to Claimant, William H. Corcoran, attorneys' fees in the amount of Two Thousand Four Hundred Dollars and No Cents (\$2,400.00);
3. Claimant's Claim for exemplary and punitive damages is denied;
4. Respondents' Claim for attorneys' fees and costs is denied;

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD, Inc. shall retain the \$100.00 non-refundable filing fee previously deposited by Claimant and the following Forum Fees are assessed:

3 Sessions X \$400.00 = \$1,200.00.

Respondents are jointly and severally liable to pay to Claimant an additional sum of \$400.00 which represents Claimant's initial hearing session deposit;

Respondents are jointly and severally liable to pay forum fees in the amount of \$800.00.

Fees are payable to the National Association of Securities Dealers, Inc.

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ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name	Public/Industry
/s/ _____ William Dobreff, Esq.	_____ Public/Chairman
/s/ _____ John R. Main	_____ Industry/Panelist
/s/ _____ Levi T. Gardner, III	_____ Public/Panelist

Date of Decision:

Dated by the NASD: November 6, 1991