

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Tottenham Corporation
and

90-02700

Name of Respondents

Bear Stearns & Co., Inc. and
Jorge E. Villalba
and

Name of Third Party Respondent

Alberto Garza Santos

REPRESENTATION OF PARTIES

Claimant was represented by Walter T. Weathers, Esq., Houston, Texas.

Respondents Bear Stearns & Co., Inc. and Jorge E. Villalba were represented by Mary L. O'Connor, Esq., of Akin, Gump, Strauss, Hauer & Feld, Dallas, Texas.

Third Party Respondent Alberto Garza Santos was represented by Robert E. Meadows, Esq. of Sewell & Riggs, Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about September 28, 1990. Claimant's Submission Agreement signed on September 18, 1990 by Maria Guerra, President.

Statement of Answer filed by Respondents Bear Stearns & Co., Inc. and Jorge E. Villalba, on or about December 18, 1990. Respondent Bear Stearns & Co., Inc.'s Submission Agreement signed on December 17, 1990 by Hill A. Feinberg. Respondent Jorge E. Villalba's Submission Agreement signed on December 17, 1990.

Statement of Answer filed by Third Party Respondent Alberto Garza Santos on or about July 24, 1991. Third Party Respondent Alberto Garza Santos' Submission Agreement signed on August 21, 1991.

HEARING INFORMATION

A pre-hearing conference was held on January 13, 1992 lasting one (1) session.

The hearing was held on Tuesday, February 18, 1992 for two (2) sessions, Wednesday, February 19, 1992 for two (2) sessions, Thursday, February 20, 1992 for two (2) sessions, Saturday, March 21, 1992 for two (2) sessions, Sunday, March 22, 1992 for two (2) sessions, Monday, March 23, 1992 for two (2) sessions, Tuesday, March 24, 1992 for two (2) sessions, Wednesday, March 25, 1992 for two (2) sessions, Saturday, April 25, 1992 for two (2) sessions, Sunday, April 26, 1992 for three (3) sessions, Monday, April 27, 1992 for three (3) sessions, Tuesday, April 28, 1992 for three (3) sessions, Wednesday, April 29, 1992 for two (2) sessions, Thursday, April 30, 1992 for three (3) session, Friday, May 1, 1992 for three (3) sessions and Thursday, May 21, 1992 for one (1) session in Dallas, Texas for a total of thirty six (36) sessions and one (1) prehearing session.

CASE SUMMARY

Claimant Tottenham Corporation alleged that it opened an account with Bear Stearns & Co., Inc. through Jorge E. Villalba for the purpose of purchasing U.S. Treasury Zero Coupon Bonds ("strips"). Claimant alleged that after the purchase of the strips, Respondent Villalba took advantage of the age, inexperience, and trust of Alberto Garza Santos to obtain purported authorizations to make highly leveraged, speculative trades in the account. Claimant alleged that Jorge E. Villalba occupied a fiduciary capacity in relationship to it and continually violated his fiduciary duties. Claimant stated that the actions of Respondents constituted the following causes of action: negligence; gross negligence; breach of fiduciary duty; fraud; churning; unauthorized trading; unsuitable trading; failure to execute; misrepresentations or omissions; violations of Sec. 10(b) of the Securities and Exchange Act of 1934 and Rule 10(b)(5) promulgated thereunder; violation of Rule 405 of the New York Stock Exchange; and violation of Sec 2 of Article III of the NASD manual.

Claimant specifically alleged that Jorge E. Villalba knew that it was relying on his and Respondent Bear Stearns' expertise and misrepresented the inherent risk of investment vehicles and failed to disclose certain risks. Claimant further alleged that Respondent Bear Stearns & Co., Inc. failed to supervise Respondent Villalba and failed to obtain any authorization which would allow Alberto Garza Santos to direct trading activity in its' account.

Respondents Bear Stearns & Co., Inc. and Jorge E. Villalba denied the allegations set forth in the Statement of Claim. Respondents also asserted the following affirmative defenses: ratification; estoppel; waiver; in pari delicto (unclean hands); that there were no material misrepresentations; that there was no reliance by the Claimant; that they exercised reasonable care in handling the account of Claimant; that Claimant failed to exercise due diligence; assumption of the risk; and failure to mitigate. Respondents further stated that the losses complained of in this matter concern two separate securities, UAL Corp. and Fannie Mae warrants.

Respondents asserted a Third Party Claim against Alberto Garza Santos alleging that he was responsible for any injury incurred by Claimant. Respondents further alleged that Alberto Garza Santos directed, approved and ratified all transactions in the account of Claimant and that he had the authority to act for the account of Claimant.

Third Party Respondent Alberto Garza Santos denied the allegations set forth in the Third Party Claim asserted in this matter. Third Party Respondent Alberto Garza Santos also stated that Bear Stearns & Co., Inc. and Jorge E. Villalba were fully aware of his lack of sophistication and that Villalba's actions constituted a continuous series of misrepresentations calculated to generate commissions. Third Party Respondent Alberto Garza Santos further stated that Villalba failed to explain investment and trading risks, failed to follow instructions and induced him not to reveal the trading activity for a period of time.

RELIEF REQUESTED

Claimant requested an award in the amount of \$2,282,083.12 in compensatory damages, \$6,000,000.00 in punitive damages, pre-award and post award interest, costs and attorney's fees.

Respondents Bear Stearns & Co., Inc. and Jorge E. Villalba requested that the claims asserted against them be dismissed and that an award be rendered against Alberto Garza Santos for reimbursement of attorney's fees, expenses and the amount of any adverse award in this matter.

Third Party Respondent Alberto Garza Santos requested that the claims asserted against him be denied.

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 original(s) remain on file with the NASD.

AWARD

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

1. Respondents Bear Stearns & Co., Inc. and Jorge E. Villalba shall be and hereby are jointly and severally liable for and shall pay to the Claimant Tottenham Corporation the sum of \$1,587,000.00 (One Million Five Hundred Eighty Seven Thousand Dollars) as compensatory damages.

2. Interest in the amount of \$415,342.00 (Four Hundred Thousand Three Hundred Forty Two Dollars) is awarded on the above stated sum.
3. Respondents Bear Stearns & Co., Inc. and Jorge E. Villalba shall be and hereby are jointly and severally liable for and shall pay to the Claimant Tottenham Corporation the sum of \$1,000,000.00 (One Million Dollars) as punitive damages.
4. No damages are awarded on the Third Party Claim asserted in this matter.
5. Each party shall bear its own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

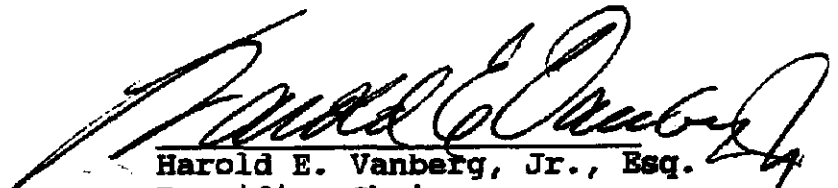
Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$300.00 (Three Hundred Dollars) and shall retain the hearing session deposit in the amount of \$1,500.00 (One Thousand Five Hundred Dollars) previously deposited with the NASD by the Claimant. Claimant Tottenham Corporation shall pay to the NASD the sum of \$25,650.00 (Twenty Five Thousand Six Hundred Fifty Dollars) and Respondent Bear Stearns & Co., Inc. shall pay to the NASD the sum of \$27,150.00 (Twenty Seven Thousand One Hundred Fifty Dollars) as forum fees. Forum fees are calculated at the rate of \$1,500.00 per hearing session and \$300.00 for each prehearing conference.

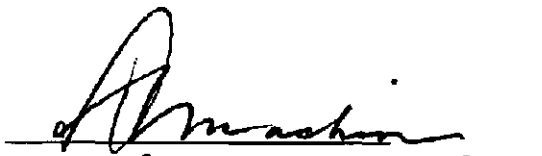
No postponement fees are assessed.

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

Dated:

May 21, 1992


Harold E. Vanberg, Jr., Esq.
Presiding Chair
Public Arbitrator


May 21, 1992

May 21, 1992

NASD decision served