



Arbitration

N.A.S.D. AWARD

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Sam Kassab & Akram Semaan

91-00485

Name of Respondents

Rauscher Pierce Refsnes, Inc.
Bear Stearns & Company
Marantette & Co.
David T. Marantette, III

REPRESENTATION

For Claimants Sam Kassab and Akram Semaan ("Claimants") Charles J. Mocerl, Esq. and David K. Eslick, Esq.

For Respondents David T. Marantette, III ("Marantette") and Marantette & Co. Paul Sarnacki, Esq. and Robert Eahn, Esq.

CASE INFORMATION

Statement of Claim filed: February 11, 1991.

Claimant Sam Kassab's Submission Agreement signed on: November 28, 1990.

Claimant Akram Semaan's Submission Agreement signed on: December 6, 1990.

Statement of Answer filed by Respondent Rauscher Pierce Refsnes, Inc. ("RPR") on: June 27, 1991.

Respondent RPR's Submission Agreement signed on: June 26, 1991.

Statement of Answer filed by Respondent Bear Stearns & Co., Inc. ("Bear Stearns") on: May 31, 1991.

Respondent Bear Stearns's Submission Agreement signed on: May 30, 1991.

Joint Statement of Answer filed by Respondents by David T. Marantette, III and Marantette & Co. on: June 1, 1992.

Respondents Marantette and Marantette & Co. did not file Submission Agreements.

HEARING INFORMATION

Pre-Hearing Conference: February 10, 1992.

Hearing Dates/Sessions: June 3, 1992 - one session
June 5, 1992 - two sessions

Hearing Location: American Arbitration Association, Southfield Michigan.

CASE SUMMARY

Claimants alleged that they were unsophisticated investors who placed their faith and trust into Marantette to properly invest their funds. Claimants alleged that Marantette assured Claimants that he would take care of their account. Claimants alleged that Marantette wrongfully purchased Metropolitan Savings and Loan ("Metropolitan") for their account and that Marantette guaranteed that the Claimants would make money. Claimants alleged that because of Marantette's wrongful purchase of Metropolitan the Claimants suffered substantial losses. Claimants alleged that between 1978 through 1987, Marantette involved the Claimants without their knowledge in a stock manipulation scheme which involved Bayly Shares which were later exchanged for OTF Units. Claimants alleged that Marantette wrongfully purchased Rustar Laboratories, Inc. for Claimants account. Claimants alleged that Marantette wilfully made untrue statements, omitted material facts and concealed the true nature of the criminal enterprise. Claimants alleged that Respondent Marantette was aided and abetted by all the other Respondents in all these allegations. Claimants alleged that apart from the insider manipulations and fraud involved in Marantette's dealing, the stocks involved in Marantette's dealings were unsuitable investments for Claimants. Claimants further alleged that they were injured by Bear Stearn's failure to supervise Marantette & Co. Claimants further alleged that they were injured by RFR's failure to supervise Marantette & Co.

Respondents Marantette & Marantette & Co. maintained that all investments were fully disclosed and made only after and pursuant to the Claimants' consent and approval. Marantette and Marantette & Co. maintained that there is no direct causation between Claimants' alleged damages and Marantette's conduct, but rather Claimants' damages are the result of the unpredicted stock market crash in October of 1987. Marantette and Marantette & Co. maintain that Claimants racketeering claim is without merit and that Claimants misrepresentation or/and fraud claims are barred by the applicable two year period of limitations. Marantette and Marantette & Co. maintained that Claimants knew or should have known of their potential cause of action by December of 1987. Marantette and Marantette & Co. denied all other allegations of wrongdoing asserted by Claimants.

Respondent Bear Stearn's maintained that pursuant to the Clearing Agreement between Bear Stearns and Marantette & Co. it is clear that Marantette & Co. was responsible for (i) the integrity and authority of trades in an account, (ii) the supervision of its brokers, (iii) the suitability of trades in its customer accounts, and (iv) the execution of trades at Marantette & Co. Bear Stearns maintained that it has no responsibility for the propriety of these trades for Claimants' account and that it is not responsible for any losses suffered in Claimant's account.

Respondent RPR maintained that it had no duty to supervise Marantette. RPR maintained that it cleared for a separate and distinct firm, E.G. Jones which did not employ Marantette. RPR maintained was not aware of Marantette's alleged stock manipulation scheme and that RPR did not have a general duty to the public at large to assume the role of the Securities and Exchange Commission.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$489,021.54, interest and actual attorneys' fees plus treble damages under Racketeer Influenced Corrupt Organizations Statute, 18 USC 1961, et seq.

Respondent Bear Stearns requested that the panel summarily dismiss all claims against it prior to the arbitration hearing. Bear Stearns requested that if this panel renders an award in any amount against Bear Stearns that it also grant an award in Bear Stearns favor against Marantette & Co. in that amount pursuant to their indemnification.

Respondent RPR requested that the panel summarily dismiss RPR from this arbitration before it is required to incur additional costs, and that it require Claimants to pay all its costs incurred through the date of dismissal, including attorney's fees.

Respondents Marantette and Marantette & Co. requested that Claimants claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Bear Stearns & Co. was dismissed from this action on Motion to Dismiss on or about February 11, 1992.

Respondent Rauscher Pierce Refnes, Inc. was dismissed from this action on Motion to Dismiss on or about February 11, 1992.

Respondent Roney & Co. was dismissed per court order.

Pursuant to an Order Granting Injunctive Relief and Dismissing Complaint, Claimants were enjoined from arbitrating this claim against Roney & Co.,

before the NASD. The United States District Court Eastern District of Michigan Southern Division concluded in its Order that the proper forum for Claimants' arbitration claim against Respondent Roney & Co. is limited to the New York Stock Exchange.

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.

Pursuant to the by-laws of the NASD, the arbitrators determined that Marantette and Marantette & Co. were required to submit to this arbitration, notwithstanding their failure to submit executed Submission Agreements. Therefore, Marantette and Marantette & Co. are bound by this Panel's rulings and determination as indicated below.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions (if any), the undersigned arbitrators has decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondents David T. Marantette, III and Marantette & Co. are jointly and severally liable to the Claimants and shall pay to the Claimants the sum of **NINETY-SIX THOUSAND AND 00/100 DOLLARS (\$96,000.00)**.
2. That the respective parties shall bear their own costs, including attorneys fees.
3. All other requests for damages are denied in their entirety.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the panel has determined that forum fees should be equally assessed between the Claimants and Respondent Marantette and Marantette & Co.

Forum fees in this matter are for the three hearing sessions conducted in this matter at \$1000 per session for a total of \$3,000 plus \$300 for the prehearing session conducted in this matter on February 10, 1992.

Claimants shall pay forum fees in the amount of \$1,650. Claimants, however, are entitled to offset this amount with their previously deposited hearing session fee of \$1000 so that the amount due from the Claimants is \$650.00.

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Respondents Marantette and Marantette & Co. shall pay forum fees in the amount of \$1,650.00.

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

Concurring Arbitrator's Signature:

Name

Public/Industry



Carol M. Crosby, Esq./Chairperson

Public Arbitrator

Decision Dated: July 24, 1992