

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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

In the Matter of the Arbitration BetweenName of Claimant

Robert S. Lewis Retirement Trust
Robert S. Lewis

91-01276

Name of Respondents

Bear Stearns & Company
Elliot M. Hershberg

REPRESENTATION

For Claimants Robert S. Lewis Retirement Trust and Robert S. Lewis: Lloyd
S. Clareman, Esq.

For Respondents: James M. Rubbert, Esq. of Bear Stearns & Co., Inc.

CASE INFORMATION

Statement of Claim filed: April 22, 1991.

Claimant's Submission Agreement signed on: March 6, 1991.

Joint Statement of Answer and Counterclaim filed by Respondents Bear Stearns
& Co., Inc. and Elliot Hershberg: June 24, 1991.

Respondent, Bear Stearns & Co., Inc.'s Submission Agreement signed on:
June 21, 1991.

Respondent, Elliott Hershberg's Submission Agreement signed on: June 21,
1991.

Claimant's reply to Counterclaim filed on: July 5, 1991.

HEARING INFORMATION

Hearing Date/Sessions: April 21, 1992, 2 Sessions
April 22, 1992, 2 Sessions

Hearing Location: NASD offices located in New York, NY.

CASE SUMMARY

Claimants alleged that Respondents Bear Stearns & Co., Inc. and Elliot Hershberg recommended unsuitable trades in Claimants' accounts. Claimants further alleged Respondent Elliott Hershberg solicited Claimant Robert Lewis Retirement Trust funds to be invested in obscure, thinly traded and ultimately disastrous stocks, Ameribank and Cellocm, which have caused Claimants to incur substantial losses. Claimants further maintained that Respondents failed to disclose the risks associated with the stock they recommended and that they violated Respondent Bear Stearns & Co., Inc. recommendation guidelines. Claimants further maintained Respondents failed to disclose the reasons why their recommendations in various instances violated even Respondent Bear Stearns & Co., Inc. own guidelines. Claimants further alleged Respondents are guilty of violations of Section 10b-5, common law fraud, negligence, breach of fiduciary duty and NASD Rules of Fair Practice.

Respondents maintained that none of the transactions effected in the accounts of Claimants were unsuitable in light of the stated investment objectives of Claimants. Respondents further maintained that they disclosed the risks associated with any securities purchased in Claimants' accounts and that their conduct did not constitute fraud or violate Section 10b-5. Respondents further denied that they committed any of the violations alleged by the Claimants. Respondents alleged in a counterclaim that any losses allegedly sustained by Robert Lewis Retirement Trust are a direct and proximate result of Robert Lewis's failure to satisfy his fiduciary duties and obligations due to the Trust. Respondents asserted a claim for indemnity against Claimant Robert Lewis in the amount equal to any sum awarded in favor of Claimant Robert Lewis Retirement Trust.

Claimant Robert Lewis alleged in the Reply to Counterclaim that Respondent Bear Stearns & Co., Inc. should not be permitted to disavow its responsibility on the grounds its customer was a trustee and a practicing dentist and not an investment professional.

RELIEF REQUESTED

Claimant Robert Lewis Retirement Trust requested damages in the amount of \$66,000.00 together with interest as a result of the purchase of stock recommended by Respondents.

Claimant Robert Lewis requested damages in the amount of \$40,000.00 together with interest and a dismissal of Respondents' counterclaim.

Claimants also requested punitive damages in the amount deemed appropriate by the Panel.

Respondents requested that all claims asserted by the Claimants be dismissed in their entirety and that costs are assessed against the Claimants. In the alternative, Respondents asserted a claim for indemnity against Claimant Robert Lewis in the amount equal to any sum awarded in favor of the Retirement Trust.

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- All Claims by the Claimants are dismissed in all respects.
- 2- The Claimants' claim for punitive damages is denied.
- 3- The Respondents' counterclaim is denied.
- 4- Each party shall bear their respective costs, including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

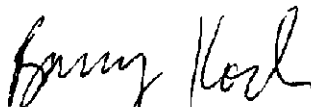
4 sessions X \$750.00 = \$3,000.00 minus \$750.00 hearing session
deposit net = \$2,250.00 due.

Forum Fees Assessed Against:

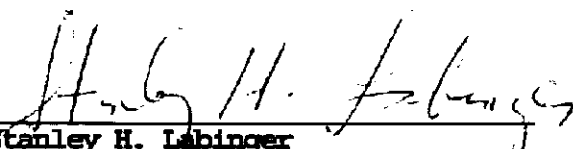
- 1- The Respondent Bear Stearns & Co., Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$2,250.00 to represent forum fees.
- 2- The Respondent Bear Stearns & Co., Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$500.00 representing the outstanding claim filing fee.

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

ARBITRATOR SIGNATURES



Barry Koch, Esq.
Public Arbitrator



Stanley H. Labinger
Public Arbitrator



Larry A. Kimmel
Industry Arbitrator

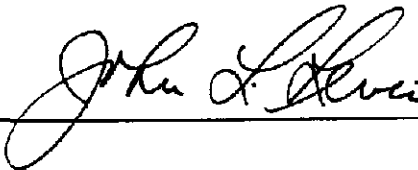
Date of Decision: July 2, 1992

STATE OF: New York
COUNTY OF: New York

S.S.:

On this 22nd day of JUNE, 1992, before me personally appeared **Barry Koch, Esq.** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

JOHN L. LEVIN
Notary Public, State of New York
No. 41-4609178
Qualified in Queens County
Commission Expires APRIL 30, 1993

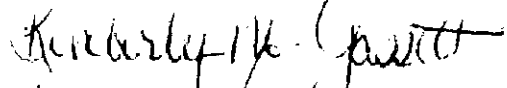
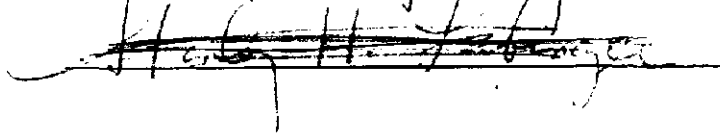


STATE OF: ~~New York~~ Connecticut
COUNTY OF: ~~New York~~ Hartford

S.S.:

On this 29th day of June, 1992, before me personally appeared **Stanley H. Labinger** known and known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.

KIMBERLY M. GASSETT
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1996

STATE OF: New York
COUNTY OF: New York

S.S.:

On this _____ day of _____, 1992, before me personally appeared **Larry A. Kimmel** known and known to to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.
