

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Kevin Jenkins, Trustee of the
Jenkins Family Trust,
U/D/T dated October 2, 1985
Claimant

vs.

AWARD CONSOLIDATED CASES
NSED #91-01714
NASD #91-01724

Bear Stearns & Co., Inc.
Kayne, Anderson & Co.
Respondents

AND

Sakaran Van Suwannukul, Trustee
for Suwannukul Family Trust
Claimants

vs.

Bear Stearns & Co., Inc.
Kayne, Anderson & Co.
Respondents

REPRESENTATION

For Claimants: Edward Vincent King, Jr., Esq., and Susan Stark, Esq.,
San Francisco, California

For Respondents: Stephen Young, Esq., and Elizabeth P. Beazley, Esq.,
Keesal, Young & Logan, Long Beach, California

CASE INFORMATION #91-01714

Statement of Claim filed: June 4, 1991

Claimant's Submission Agreement signed: May 3, 1991

Joint Statement of Answer filed by Respondents on: August 1, 1991

Respondents' Submission Agreements signed:
Bear Stearns: July 25, 1991
Kayne, Anderson: July 31, 1991

CASE INFORMATION - #91-01724

Statement of Claim filed: June 4, 1991

Claimant's Submission Agreement signed: May 14, 1991

Joint Statement of Answer filed: September 24, 1991

Respondents' Submission Agreements signed:

Bear Stearns: August 12, 1991

Kayne, Anderson: August 23, 1991

HEARING INFORMATION

Prehearing Telephone Conference/Session: June 3, 1992 (one session)

Hearing Date/ Sessions: June 8, 1992 (two sessions)
June 9, 1992 (two sessions)
June 10, 1992 (two sessions)
June 11, 1992 (two sessions)
June 12, 1992 (two sessions)

Hearing Location: San Francisco, California

CASE SUMMARY

Claimants each alleged breach of fiduciary duty for the unauthorized sale of warrants of Computer 2000, a German security; each further alleged fraud, conversion, racketeering and violation of NASD rules with respect to the sale of the warrants.

Respondents denied all allegations of wrong-doing, and asserted that since the security at issue was not registered with the Securities and Exchange Commission, Claimants were precluded from participating in the investment. Respondents further asserted the claims are barred by the applicable statutes of limitations, and that Respondents' acts or omissions were not a contributing cause of any damages incurred by Claimants, and that Claimants knowingly assumed the risks of their investments.

RELIEF REQUESTED

Claimant Jenkins requested actual damages in excess of \$500,000.00, plus amount of unnecessary tax liability incurred, treble damages, punitive damages, attorney's fees and costs of arbitration.

Claimant Summukul requested actual damages in excess of \$200,000.00, plus amount of unnecessary tax liability incurred, treble damages, punitive damages, attorney's fees and costs of arbitration.

Respondents requested dismissal of all claims in their entirety.

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.

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, including the claim for punitive damages, brought by Sakarin Van Suwannukul are dismissed in their entirety.
2. All claims asserted against Respondent Kayne, Anderson by Kevin Jenkins are dismissed in their entirety.
3. Respondent Bear Stearns is liable for and shall pay to Kevin Jenkins the sum of \$146,667.00 inclusive of interest.
4. Kevin Jenkin's claim for punitive damages is dismissed.
5. The parties shall each bear their respective costs including attorney's fees.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall refund the \$1,000.00 hearing session deposit previously made by Sakarin Van Suwannukul, as well as the \$1,000 hearing session deposit made by Kevin Jenkins.

Forum fees are assessed against:

Respondent Bear Stearns as follows:

1 pre-hearing conference @ \$300.00	\$ 300.00
10 sessions @ \$1,000./session	<u>10,000.00</u>
Total due:	\$10,300.00

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

ARBITRATION PANEL

Name

Public/Industry

Concurring Arbitrators' Signatures

John O. Blevins, Jr.

Public Arbitrator

Daniel M. Yarnsbon

Public Arbitrator

Terrence W. Dorsey

Industry Arbitrator



John O. Blevins, Jr.

DATE SERVED: 07/22/92

Daniel M. Yarnsbon

Terrence W. Dorsey