

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Victor H. Goulding

91-02355

Name of Respondents

Bear Stearns & Company and
James K. Nugent

REPRESENTATION

Claimant, Victor H. Goulding was represented by Randall S. Goulding, Esq., and Stephen J. Senderowitz, Esq. of Greenberger, Krauss & Tenenbaum, Chartered, Chicago, Illinois.

Respondents, Bear Stearns & Company and James K. Nugent were represented by Nicholas P. Iavarone, Esq. of Bellows and Bellows, Chicago, Illinois.

CASE INFORMATION

The Statement of Claim was filed with the NASD on July 31, 1991.

Claimant, Victor H. Goulding's Submission Agreement was signed on July 25, 1991.

The Joint Statement of Answer was filed with the NASD by Respondents, Bear Stearns & Company and James K. Nugent on December 11, 1991.

Respondent, Bear Stearns & Company's Submission Agreement was signed on December 4, 1991 by Mark Lehman, Senior Managing Director and Respondent, James K. Nugent's Submission Agreement was signed on January 9, 1992.

HEARING INFORMATION

The hearing occurred on March 31, 1992 for two (2) sessions, April 1, 1992 for two (2) sessions and May 11, 1992 for two (2) sessions.

The hearing location was Chicago, Illinois.

CASE SUMMARY

Claimant, Victor H. Goulding ("Goulding") alleged that Respondent James K. Nugent ("Nugent") while employed by Respondent Bear Stearns & Company ("Bear Stearns") telephonically solicited Goulding to purchase Texas Air Corporation Preferred Stock ("Texas Air") on or about September 1, 1989. Goulding alleged that Nugent made certain misrepresentations to Goulding to induce Goulding to purchase the Texas Air stock. Goulding alleged that but for the representations made by Nugent, he would not have purchased the Texas Air stock which is now virtually worthless. Goulding alleged that the foregoing misrepresentations were violations of the Illinois Securities Law of 1953 and the Illinois Consumer Fraud and Deceptive Business Practices Act.

Respondents Bear Stearns and Nugent denied the allegations of the Claim. Nugent and Bear Stearns admitted that Nugent recommended the purchase of Texas Air stock, but asserted that Goulding was advised of the risks attendant to the purchase. Nugent allegedly told Goulding that the stock was not paying dividends, and that it had not paid any dividends for a number of quarters. Nugent and Bear Stearns denied that the Texas Air stock was unsuitable for Goulding. Goulding was alleged to be an extremely active stock trader who is seeking to use 20-20 hindsight to recover losses for a stock which he now wishes he had not purchased.

RELIEF REQUESTED

Goulding requested judgment against the Nugent and Bear Stearns jointly and severally, in the amount of \$140,000.00, costs, punitive damages in the amount of \$280,000.00, interest and attorney's fees and such other relief as the panel deems just and equitable.

Bear Stearns and Nugent requested dismissal of the Claim plus costs, legal fees and expenses incurred to defend this frivolous arbitration complaint.

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. Bear Stearns and Nugent are jointly and severally liable for and shall pay to Goulding without interest, the sum of One hundred thousand dollars and no cents (\$100,000.00);

2. Goulding's claims for punitive damages are specifically denied; and,

3. The parties are each to bear their own costs, expenses and attorney's fees incurred in this matter.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed. The NASD shall retain the \$250.00 non-refundable claim filing fee and the \$1000.00 hearing session deposit made with the NASD. Bear Stearns is assessed additional Forum Fees of \$3000.00 and Goulding is assessed additional Forum Fees of \$2000.00. Nugent is not assessed any additional Forum Fees.

Additional Forum Fees assessed to the parties are payable to the National Association of Securities Dealers, Inc.

Concurring Arbitrators' Signatures

Name

Jerome M. Katz
Jerome M. Katz, Esq.
Presiding Chairman/Public Arbitrator

5/11/92
Dated

Richard Zachary
Richard Zachary, Esq.
Panelist/Public Arbitrator

5/11/92
Dated

John Eberle
John Eberle
Panelist/Industry Arbitrator

5-11-92
Dated

Date Award Served by the NASD: May 19, 1992