

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of Arbitration Between :

Stephen P. Moskowitz :

Claimant :

CASE #91-02479

AWARD

vs. :

Bear, Stearns & Co., Inc. :

Respondent :

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 9, 1991, Claimant, Stephen P. Moskowitz by and through his counsel Richard B. Dannenberg, Esq., New York, New York maintained that on March 7, 1991 Respondent Bear, Stearns & Co., Inc. purchased 15 Amex Major Market Index Calls at \$12 3/8 per call with an expiration date of March 16, 1991. Claimant further maintained that on March 8, 1991 his account executive, Isabel Sperber entered an order to sell the Calls with Respondents Option Trading Desk and the sale was orally confirmed being sold at \$16.50 per call. Claimant contended that the sale was later confirmed by Respondent in writing. Claimant further contended that Respondent failed to inform him that they cancelled the trade and reinstated the position in his account. Claimant argued that Respondents lack of timely notification of the cancellation forced him to resell at a loss.

Respondent, Bear, Stearns & Co., Inc. by and through their in-house counsel, Nicholas K. Notias, maintained that Claimant, Stephen P. Moskowitz was not their customer but was a customer of Pendrick Reeves Associates, a brokerage firm for which Respondent, Bear, Stearns & Co., Inc. provides clearing services. Respondent further maintained that Claimants, account executive, Isabel Sperber placed a limit order to sell the Calls at \$16.50 per Call or better. Respondent contended that the American Stock Exchange ("AMEX") erroneously reported to Respondent that the Calls sold at \$16.50. Respondent further contended that on March 11, 1991 AMEX advised them of the erroneous report therefore, Claimants order had never been active. Respondent argued that

they notified Claimants, account executive, Isabel Sperber on March 11, 1991, prior to the opening of the market, of the erroneous report and that Claimants, order was never executed. Respondent further argued that the Calls never traded as high as \$16.50 per Call and that Respondent was not obligated to honor the erroneous report from AMEX. Respondent asserted that it was Claimants responsibility to re-submit his sale order.

RELIEF REQUESTED

Claimant, Stephen P. Moskowitz requested \$9,801.00 in actual damages plus interest and attorneys' fees.

Respondent, Bear, Stearns & Co., Inc. requested the claims of Claimant, Stephen P. Moskowitz be dismissed in its entirety and costs be assessed against Claimant.

AWARD

Pursuant to Section 13 of the national Association of Securities Dealers, inc. Code of Arbitration Procedure, a single Public Arbitrator, George R. Freud was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on August 1, 1991 and, by the Respondent, Bear, Stearns & Co., Inc. on September 23, 1991.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Bear, Stearns & Co., Inc. is liable and shall pay to the Claimant, Stephen P. Moskowitz the sum of \$4,563.00 in damages.
2. Respondent, Bear, Stearns & Co., Inc. is liable and shall pay to the Claimant, Stephen P. Moskowitz simple interest at the rate of 8% per annum from March 8, 1991 to date of the payment of award.
3. The Claimants request for attorneys fees is denied.
4. The parties shall bear their respective costs.
5. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the National Association of Securities Dealers, Inc.

AFFIRMATION

I, GEORGE R. FREUND, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

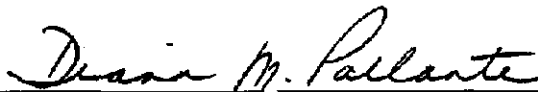
DATE OF DECISION: February 13, 1992

STATE OF: *New Jersey*

SS:

COUNTY OF: *Union*

On this 6th day of February 19 92, before me personally appeared GEORGE R. FREUND to me known and known before me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.



DIANA M. PALLANTE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Mar. 17, 1994