

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimants

Vivian Nicolaievsky & Raquel Reisbaum Lasky

and

91-02485

Name of Respondents

Bear Stearns & Co., Inc. & Avi Rojany

REPRESENTATION OF PARTIES

Claimants Vivian Nicolaievsky and Raquel Reisbaum Lasky were represented by Michael P. Cillo, Esq. of Davis & Ceriani, P.C., Denver, Colorado.

Respondents Bear Stearns & Co., Inc. and Avi Rojany were represented by Michael M. Gless, Esq. of Keesal, Young & Logan, Long Beach, California.

CASE INFORMATION

The Statement of Claim was filed on or about August 12, 1991. Claimant Vivian Nicolaievsky's Submission Agreement was signed on July 29, 1991. Claimant Raquel Reisbaum Lasky's Submission Agreement was signed on July 29, 1991 by Isaac Lasky, Attorney-in fact.

Statement of Answer filed by Respondents Bear Stearns & Co., Inc. and Avi Rojany on or about November 22, 1991. Respondent Bear Stearns & Co., Inc.'s Submission Agreement was signed on October 28, 1991 by Ellen R. Friedman. Respondent Avi Rojany's Submission Agreement was signed on October 28, 1991.

HEARING INFORMATION

The hearing was held on Thursday, October 22, 1992 for two (2) sessions and Friday, October 23, 1992 for two (2) sessions in Denver, Colorado for a total of four (4) sessions.

CASE SUMMARY

Claimants alleged that Respondent Avi Rojany made material misrepresentations in connection with the recommendation to purchase Trump's Castle bonds. Claimants specifically alleged that Respondents violated Section 10b of the Securities Act of 1934 and

Rule 10b-5 promulgated thereunder, breached their fiduciary duty to the claimants, were negligent in the handling of the accounts, and that Respondent Bear Stearns negligently supervised Respondent Avi Rojany. Claimants further alleged that Respondent Rojany recommended he purchase of the Trump's Castle bonds on margin knowing the Claimants' financial situation.

Respondents denied the allegations set forth in the Statement of Claim. Respondents stated that the Lasky had stated during their initial meeting that they had prior investment experience and that their objective was high income and growth. Respondents stated that Claimants had executed a power of attorney in favor of Isaac Lasky who was to make all trades in their accounts. Respondents further stated that the risks and rewards of the investments and strategies, including investing on margin were reviewed with Isaac Lasky. Respondents also stated that each trade made in the accounts was discussed in advance with Isaac Lasky or Ms. Nicolaievsky. Respondents also asserted affirmative defenses including the following: claimants expressly ordered, approved, authorized, participated in, and ratified the acts and transactions in dispute; failure to mitigate; laches; and the claims are barred by the applicable statutes of limitation.

RELIEF REQUESTED

Claimants requested an award of actual damages in such amount as may be proven at the hearing which exceed \$30,000.00 in the account of Vivian Nicolaievsky and exceed \$60,000.00 in the account of Raquel Reisbaum Lasky, the return that claimants could have earned on the funds, other out-of-pocket costs incurred, exemplary damages, interest, costs, expert witness fees, attorney's fees, and such other relief as the panel seems proper.

Respondents requested that the claimants take nothing and that they be awarded their costs and such other and further relief as may be proper.

OTHER ISSUES CONSIDERED & DECIDED

Claimant Raquel Reisbaum Lasky passed away prior to the commencement of the hearing of this matter. Respondents had no objection to proceeding with the hearing of this matter. The parties further agreed that an award on behalf of Claimant Raquel Reisbaum Lasky would be to her estate, if any.

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 original(s) 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. The claims asserted herein shall be and hereby are dismissed in their entirety.
2. Each party shall bear its' own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimants and Claimants shall pay to the NASD the sum of \$500.00 as additional forum fees. Respondents Bear Stearns & Co., Inc. and Avi Rojany shall be and hereby are jointly and severally liable for and shall pay to the NASD the sum of \$1,000.00 as additional forum fees.

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each prehearing conference, if any.

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

Dated:

James B. Eichberg
Presiding Chair
Public Arbitrator

11/18/92

Albert S. Gilles, Esq.
Public Arbitrator

Eugene M. Osman
Industry Arbitrator

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. The claims asserted herein shall be and hereby are dismissed in their entirety.
2. Each party shall bear its' own costs, expenses and attorney's fees incurred in this matter not specifically enumerated herein.

FORUM FEES

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimants and Claimants shall pay to the NASD the sum of \$500.00 as additional forum fees. Respondents Bear Stearns & Co., Inc. and Avi Rojany shall be and hereby are jointly and severally liable for and shall pay to the NASD the sum of \$1,000.00 as additional forum fees.

Forum fees are calculated at the rate of \$500.00 per hearing session and \$300.00 for each prehearing conference, if any.


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

Dated:

James B. Eichberg
Presiding Chair
Public Arbitrator

Albert S. Gilles, Esq.
Public Arbitrator

NOV 14, 1992


Eugene M. Osman
Industry Arbitrator