

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Thomas and Laura Bitmor

92-00603

Name of Respondents

Bear Stearns & Co., Inc.  
Jerome Glickman  
Steven Urcia

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**REPRESENTATION**

For Claimant: Boris J. Lewyckyj, Esq., a sole practitioner.

For Respondents: Hartley T Bernstein, Esq., of the law firm of Brandeis, Bernstein & Wasserman

**CASE INFORMATION**

Statement of Claim filed: February 18, 1992.

Amended Claim filed: May 13, 1992.

Claimants' Submission Agreement signed on: May 22, 1992.

Joint Statement of Answer and Motion to Dismiss filed by Respondents, Bear Stearns & Co., Inc., Jerome Glickman and Steven Urcia on: April 14, 1992.

Answer to Amended Claim filed by Bear Stearns & Co., Inc., Jerome Glickman, Steven Urcia, William C. Mallery and Sy Schaffler on: June 22, 1992.

Respondent Bear Stearns & Co., Inc.'s Submission Agreement signed on: April 10, 1992.

Respondent Jerome Glickman's Submission Agreement signed on: April 13, 1992.

Respondent Steven Urcia's Submission Agreement signed on: April 14, 1992.

### **HEARING INFORMATION**

Pre-Hearing Conference: November 20, 1992, 1 session.  
December 1, 1992, 1 session.

Hearing Date(s)/Sessions: December 2, 1992, 2 sessions.  
December 3, 1992, 2 sessions.  
January 20, 1993, 2 sessions.  
January 21, 1993, 2 sessions.  
March 8, 1993, 2 sessions.

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

### **CASE SUMMARY**

Claimants alleged that Respondents purchased securities for their account that were unsuitable in size and frequency and made unsuitable recommendations; churned their account to generate commissions and engaged in fraud and made misrepresentations to the Claimants. Claimants further alleged that Respondents Bear Stearns & Co., Inc. and Steven Urcia failed to properly supervise and control Respondent Jerome Glickman's activities in handling claimants' account which included frontrunning, unauthorized transactions and failure to disclose truth in lending.

Respondents maintained that claimants in their effort to concoct a claim have distorted and misrepresented the history of their Bear Stearns & Co., Inc. account. Respondents maintained that claimants' account was controlled at all times by claimant Laura Bitmor who was a sophisticated and experienced stock speculator and trader and that the claim was a calculated and insupportable effort by Laura Bitmor to regain and recover losses which were wholly attributable to her own conduct. Respondents further maintained that although claimants asserted they were mistreated by Respondents, claimants continued to trade the Bear Stearns & Co., Inc. account long after the conclusion of the transactions which form the basis for the Claimants' action. Respondents also made a motion to dismiss the claim against Respondent Steven Urcia on the ground that claimants had failed to assert any claim against Mr. Urcia which would support a grant of relief.

**RELIEF REQUESTED**

Claimants requested the following damages:

- a) Churning; commissions of unspecified amount but not less than \$26,212.00.
- b) Churning; commissions of unspecified amount for 1986 and 1987 of not less than \$12,223.00.
- c) Best fraud loss of not less than \$12,223.00.
- d) unauthorized margin interest charge of not less than \$8,169.00
- e) claimants out-of-pocket losses not less than \$21,500.00.
- f) attorneys' fees and costs of not less than \$17,500.00.
- g) pre-judgment interest of at least 7% on the amount of damages due.
- h) lost opportunity cost of a minimum of \$160,000.00.
- i) punitive damage award of at least \$245,000.00.

Approximate total claimed as damages is \$490,000.00

Respondents requested dismissal of the statement of claim in all respects; judgment on the motion to dismiss claim against Steven Urcia; and awarding Respondents attorneys fees and costs.

**OTHER ISSUES CONSIDERED & DECIDED**

Pursuant to Section 16 of the Code of Arbitration Procedure, the arbitration panel has upon their own initiative dismissed all claims contained in the Amended Claim as to Respondent Bear Stearns & Company and William C. Mallery and Sy Saffler and referred the parties to the remedies provided by applicable law.

**AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. All claims against all parties be and hereby are dismissed in all respects.
2. The Claimants' request for punitive damages is denied.
3. The Claimants' motion for sanctions is denied.
4. All other motions by all parties are denied.
5. Each party shall bear their respective costs including attorneys fees.

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**FORUM FEES**

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

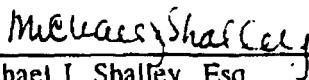
10 sessions X \$750.00 + 2 pre-hearing conferences (with 3 arbitrators = \$1500.00) = \$9,000.00 less Claimants' hearing session deposit of \$750.00 = \$8,250.00 due.

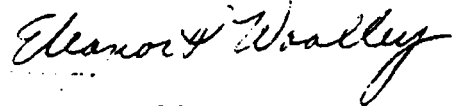
The Respondent Jerome Glickman be and hereby is liable and shall pay to the NASD the sum of \$8,250.00 to represent forum fees.


The NASD shall retain the \$200.00 claim filing fee previously deposited by the claimants.


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

**ARBITRATORS' SIGNATURE**

  
\_\_\_\_\_  
Michael J. Shalley, Esq.  
Public Arbitrator



  
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Harris Gould, Esq.  
Public Arbitrator

  
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Richard P. Ryder, Esq.  
Industry Arbitrator

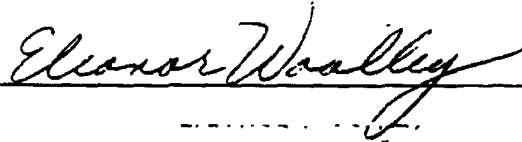
Date of Decision: 04/07/93

STATE OF: NEW JERSEY

SS:

COUNTY OF: MONMOUTH

On this 25<sup>th</sup> day of MARCH, 1993, before me personally appeared Michael J. Shalley, 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.



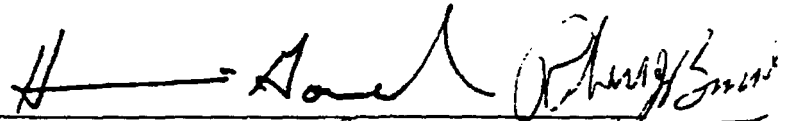
STATE OF: New Jersey

NOTARY PUBLIC

SS:

COUNTY OF: Bergen

On this 30<sup>th</sup> day of March, 1993, before me personally appeared Harris Gould, 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.

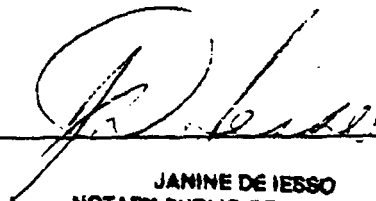
  
ROBERT J. BASSETT  
ATTORNEY AT LAW  
NEW JERSEY

STATE OF: New Jersey

SS:

COUNTY OF: Union

On this 22<sup>nd</sup> day of March, 1993, before me personally appeared Richard P. Ryder, 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.



JANINE DE IESSO  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires April 24, 1995