

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Al & Helen Barker

vs.

NASD #92-00908

Name of Respondents

Bear Stearns & Company, Inc.
Allen R. Asker

REPRESENTATION

For Claimants: Daniel K. Donahue, Esq., of Bruck & Perry, Newport Beach, California.

For Respondent Bear Stearns: Terry Ross, Esq., of Keesal, Young & Logan, Long Beach, California.

For Respondent Allen Asker: Allen Asker

CASE INFORMATION

Statement of Claim filed: March 16, 1992

Claimants' Submission Agreement signed: January 31, 1992

Statement of Answer filed by Respondents on:

Bear Stearns:	May 20, 1992
Allen Asker:	None filed

Respondents' Submission Agreements signed:

Bear Stearns:	May 26, 1992
Allen Asker:	None submitted

Although Respondent Allen Asker did not file a submission agreement, an answer or enter an appearance, he was properly served with the Statement of Claim and notified of the date, time and place of hearing. The panel took notice of its jurisdiction over Allen Asker based on these facts and by virtue of his U-4 application for registration form. However, Claimants did not press their claims against Allen Asker at hearing, but directed all evidence and argument against Bear Stearns.

HEARING INFORMATION

Prehearing Conference(s) Date(s) Sessions: January 15, 1993 (one session)

Hearing Date/ Sessions:	June 22, 1993	(two sessions)
	June 23, 1993	(two sessions)
	June 24, 1993	(two sessions)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged fraud, breach of contract, breach of fiduciary duty, negligent misrepresentation, constructive fraud, failure to supervise, violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and violation of Sections 25400 and 25401 of the California Corporate Securities Law of 1968 in connection with Claimants' investments in the common stock and restricted common stock of Phoenix Aviation.

Respondent Bear Stearns denied all allegations and all liability to Claimants, and asserted that the claim concerning Phoenix Aviation shares was not related to any of the investment activity undertaken in Claimants' several Bear Stearns accounts.

RELIEF REQUESTED

Claimants requested damages of \$98,410 plus commissions and interest, punitive damages of \$250,000, costs of arbitration and attorneys' fees.

Respondent Bear Stearns requested dismissal of all claims and an award of costs of arbitration.

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 asserted by Claimants, including the claim for punitive damages, are dismissed in their entirety.
2. The parties shall each bear their respective costs, including attorneys' fees.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the parties are to split forum fees as follows:

Total fees:

1 pre-hearing session @\$300/session	\$ 300.00
6 hearing sessions @\$750/session	<u>\$4,500.00</u>
Total	\$4,800.00
Claimants' one-half share	\$2,400.00
Credit for deposit	<u>\$ 750.00</u>
Total	\$1,650.00
Respondents' one-half share	\$2,400.00

Fees are payable to the National Association of Securities Dealers.

ARBITRATION PANEL

Name

Public/Industry

Aaron Fenton

Public Arbitrator

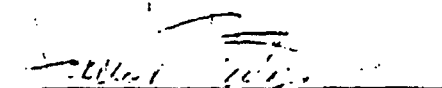
Charles Ajamian

Public Arbitrator

Thomas J. Doyle

Industry Arbitrator

Concurring Arbitrators' Signature



Aaron Fenton

Charles Ajamian

Thomas J. Doyle

Date of Decision: _____

Date Served: 07/22/93