

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Alfred J. Hoch, III

92-03992

Name of Respondents

Lew Lieberbaum & Company, Inc.
Bear Stearns Securities Corporation
Patrick J. Ogadi
John J. Fasano

REPRESENTATION

Claimant Alfred J. Hoch, III ("Claimant") was represented at the hearing by N. Curtis Ward, Esq. of the law firm of Butera, Beausang, Cohen & Brennan.

Respondent Lew Lieberbaum & Company, Inc. ("LLC") was represented at the hearing by Jay Marc Isreal, Esq., Stuart N. Kinghoff, Esq. and Lawrence P. Sandor, Esq., in-house counsels for Lew Lieberbaum & Company, Inc.

Respondent Patrick J. Ogadi ("Ogadi") appeared pro se.

Respondent John J. Fasano ("Fasano") appeared pro se.

Respondent Bear Stearns Securities Corporation ("Bear Stearns") was represented at the hearings by Herbert M. Jacobi, Esq., Attorney at Law. On the final hearing day, Bear Stearns was represented by Lawrence P. Sandor, Esq.

CASE INFORMATION

Statement of Claim was filed on November 23, 1992.
Claimant's Submission Agreement was signed on November 11, 1992.

Statement of Answer filed by Respondent LLC was filed on April 29, 1993. The Uniform Submission Agreement was signed on April 28, 1992.

Joint Statement of Answer filed by Respondents Bear Stearns, Ogadi and Fasano was filed on March 3, 1993.

Bear Stearns' Uniform Submission Agreement was signed on March 16, 1993.
Ogadi's Uniform Submission Agreement was signed on March 17, 1993.
Fasano's Uniform Submission Agreement was signed on: March 17, 1993.

HEARING INFORMATION

The hearings were held on November 19, 1993 for one session at the NASD District Office in Philadelphia, PA, October 26, 1994 for two sessions at the Doubletree Hotel in Philadelphia, PA, January 23, 1995 for two sessions at the NASD District Office in Philadelphia, PA, January 24, 1995 for two sessions at the Holiday Inn-Center City in Philadelphia, PA and June 27, 1995 for two sessions at the NASD District Office in Philadelphia, PA.

CASE SUMMARY

Claimant alleged, among other things, that Respondents are liable for the losses caused to Claimant as follows:

1. Wanton and Intentional Breach of Fiduciary Duty by enticing Claimant to sell quality stock, by unauthorized trading, by making unsuitable investment, by charging unauthorized commissions, by misrepresenting the potential of stock and by failing to carry out Claimant's goals.
2. Failure to Supervise Brokerage activities in that Fasano, LLC and Bears Stearns failed to adequately supervise the activities of Ogadi and knew or should have known of the unauthorized actions of Ogadi and their failure to act was negligent and contrary to statutory and common law.
3. Breach of Contract - The parties failed to honor their statutory duties to Claimant.
4. Securities Fraud - The parties through Ogadi and Fasano are guilty of security fraud by reason of untrue statements of material fact omissions of material fact and a course of conduct of deceit and fraud, by false assurances, failure to follow instructions, increased indebtedness without Claimant's knowledge and unauthorized margin trading, misrepresentations and use of Claimant's account for their own goals, constituting statutory violations.
5. Common Law Fraud and Deceit - through various misrepresentations and dissemination of false information for their own purposes.

Respondents categorically denied all allegations of wrongdoing asserted by Claimant. Respondent Bear Stearns stated as an affirmative defense that Claimant failed to state a cause of action since it had no contractual duty to the Claimant except as a clearing firm. Respondents Ogadi and Fasano stated as affirmative defenses the following: (1) Claimant was aware of all trades, (2) Claimant is without clean hands, and (3) Laches. Respondent LLC maintained that it properly supervised its employees as well as Claimant's account. Respondent LLC and Ogadi maintained that all investments were suitable to Claimant and in accordance with Claimant's investment goals. Respondent LLC and Ogadi maintained that there was no misrepresentation, that Claimant understood the risks associated with these investments and was fully apprised of all trades in his account. Respondents LLC and Ogadi maintained that Claimant was furnished monthly account statements, confirmation slips and investment materials.

RELIEF REQUESTED

Claimant, in his pleading requested damages in the amount of \$100,000, along with pre-judgment and post-judgment interest, attorney's fees, costs and punitive damages.

Respondents requested that Claimant's claim be dismissed in its entirety and that all attorneys' fees and costs be borne by Claimant.

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 original(s) remain on file with the NASD.

Respondent Bear Stearns motion to be dismissed from the proceedings was denied. Respondent LLC's motion to be dismissed is denied.

AWARD

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

1. That Claimant's claim against Respondent Bear Stearns is denied in its entirety.

2. That Respondents LLC, Ogadi, and Fasano are jointly and severally liable to the Claimant and shall pay to the Claimant the sum of \$97,590.18; exclusive of pre judgment interest.
3. That Claimant's claim for punitive damages is denied in its entirety.
4. That the parties shall bear their own costs and attorneys' fees except as specifically provided for below.

FORUM FEES

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

9 sessions X \$500 = \$4,500 minus hearing session deposit of 500 = net \$4,000 due.

Remaining Forum Fees are jointly and severally Assessed Against Respondents LLC, Ogadi and Fasano.

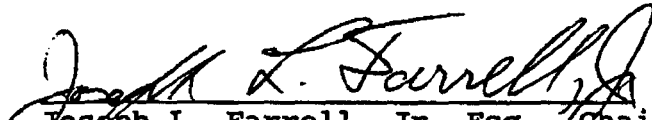
Respondents LLC, Ogadi and Fasano shall pay forum fees in the amount of \$4,000.

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

By The Arbitration Panel:

Dated:

7/26/95


Joseph L. Farrell, Jr. Esq., Chairperson
Public Arbitrator

Joseph A. Jeziorski
Public Arbitrator

Ronald C. Zimmerman
Industry Arbitrator

Date Award Served By the NASD:

July 31, 1995

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By The Arbitration Panel:

Dated:

Joseph L. Farrell, Jr. Esq., Chairperson
Public Arbitrator

July 26, 1995

Joseph A. Jeziorski
Joseph A. Jeziorski
Public Arbitrator

Ronald C. Zimmerman
Industry Arbitrator

Date Award Served By the NASD:

July 31, 1995

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By The Arbitration Panel:

Dated:

Joseph L. Farrell, Jr. Esq., Chairperson
Public Arbitrator

Joseph A. Jeziorski
Public Arbitrator

July 25, 1995

Ronald C. Zimmerman
Ronald C. Zimmerman
Industry Arbitrator

Date Award Served By the NASD:

July 31, 1995