

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Alice K. Lentzen TTEE Alice K. Lentzen Trust, Alice K. Lentzen

92-04350

and

Name of Respondents

Bear Stearns & Co., Inc., Charles Wright and Bob Hunziker

REPRESENTATION OF PARTIES

Alice K. Lentzen TTEE, Alice K. Lentzen Trust, Alice K. Lentzen ("Claimant") was represented at the hearing Pro Se.

For Respondents Bear Stearns & Co., Inc. ("Bear Stearns") and Charles Wright ("Wright"), at the hearing: Nicholas Iavarone, Esq. of Bellows & Bellows, Chicago, Illinois. For Respondent Bob Hunziker ("Hunziker") at the hearing: Pro Se.

CASE INFORMATION

The Statement of Claim was filed on December 28, 1992. The request to amend the Statement of Claim was filed on March 3, 1994 and granted by the panel on April 4, 1994. Claimant's Submission Agreement was signed on November 3, 1992.

Joint Statement of Answer was filed by Respondents, Bear Stearns and Charles Wright on or about February 29, 1993. Respondent, Robert Hunziker's Answer was filed on February 4, 1993.

Submission Agreements of Respondents Bear Stearns and Charles Wright was signed on or about February 1, 1993. Submission Agreement of Respondent Robert Hunziker was signed on February 1, 1993.

HEARING INFORMATION

A pre-hearing conference was held on July 8, 1994 for one session with N.A.S.D. staff attorney.

The hearing was held on June 27, 1994 in Chicago, Illinois for a total of two sessions.

CASE SUMMARY

Claimant alleged that Respondents Bear Stearns, Charles Wright, and Bob Hunziker are liable for the following violations which occurred in her account held with Bear Stearns regarding her purchases of Atlantic Gold stock, Home Shopping Network stock, and Aztar: serving cash procurement, attempted falsification of solicitation, churning, deliberate violation of agreed investment goals and objectives, and other unprofessional conduct regarding her account held with Bear Stearns. In her Amendment to the Statement of Claim, Claimant alleged that there were seven discretionary trades which were executed after her account was to be removed as discretionary.

Respondents, Bear Stearns and Wright stated in their joint Answer to the Claim that Claimant made a net profit while her account was at Bear Stearns. Bear Stearns and Wright also stated that the claim alleges no cause of action for which commissions on profitable transactions are actionable. Bear Stearns and Wright denied Claimant's other allegations.

Respondent Hunziker stated in his Answer to the Claim that Claimant was a knowledgeable investor and understood the risks. Hunziker also stated that he informed Claimant that when she purchased the Atlantic Gold stock it would be an unsolicited trade. Hunziker also stated that her account activity was not excessive. Hunziker stated that Claimant had trading profits in her accounts.

RELIEF REQUESTED

Claimant requested damages in the amount of her losses of \$6138.29.

Respondents Bear Stearns and Wright requested that the claim be dismissed. Respondent Hunziker denied any liability.

OTHER ISSUES CONSIDERED & DECIDED

Claimant initially named Donaldson, Lufkin & Jenrette Securities Corporation as a Respondent to the arbitration, but prior to the hearing, Claimant settled with Donaldson and they were subsequently removed as a party.

Counsel for Respondent Bear Stearns filed a Motion To Disclose the Dollar Amount of Claimant's Settlement with Respondent Donaldson, Lufkin & Jenrette prior to the hearing. After Claimant's objection to the motion at the hearing, the panel granted the motion and Claimant was ordered to disclose the settlement amount.

Respondent Bear Stearns filed a Motion To Dismiss at the end of Claimant's presentation of her case. The motion was denied at that time by the panel.

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 N.A.S.D.

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. Claimant's Statement of Claim is denied and dismissed in its entirety;
2. Each of the parties shall bear their own costs and expenses other than those specifically enumerated herein.

FORUM FEES

Forum fees are calculated at the rate of \$500 per hearing session. There were two hearing sessions x \$500 = net \$1000 due.

Pursuant to §43(c) of the N.A.S.D. Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("N.A.S.D.") shall retain the non-refundable filing fee in the amount of \$150 and shall retain as forum fees the hearing session deposit in the amount of \$500 previously deposited with the N.A.S.D. by the Claimant.

Total Amount of Fees Due To The N.A.S.D. which reflects the deduction of the \$500 hearing session deposit: \$500. The panel has determined that Claimant shall be liable for this amount of \$500.

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

Ray J. Grzebielski, Esq. s/s

July 12, 1994

Ray J. Grzebielski, Esq.
Public Arbitrator, Presiding Chair

Lawrence W. Gougler s/s

July 9, 1994

Lawrence W. Gougler
Public Arbitrator

Marc B. Horin s/s

July 12, 1994

Marc B. Horin
Industry Arbitrator

Date Award Served By The N.A.S.D.: July 19, 1994