

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

William P. Butler

93-00347

Name of Respondent(s)

Bear Stearns & Company
Robert Soifer

REPRESENTATION

For Claimant: Richard S. Wayne, Esq. of Strauss & Troy.

For Respondents: Daniel S. Taub, Esq. of Bear, Stearns & Company, Inc.

CASE INFORMATION

Statement of Claim filed: January 29, 1993.

Claimant's Submission Agreement signed on: January 27, 1993.

Joint Statement of Answer filed by Respondents Bear, Stearns & Co., Inc. and Robert Soifer on: April 1, 1993.

Respondent Bear, Stearns & Co., Inc.'s Submission Agreement signed on: April 5, 1993.

Respondent Robert Soifer's Submission Agreement signed on: April 13, 1993.

HEARING INFORMATION

Hearing Dates/Sessions: January 25, 1994 - 2 Sessions
January 26, 1994 - 2 Sessions

CASE SUMMARY

Claimant alleges that he maintained an account at Respondent, Bear Stearns & Co., Inc. ("Bear Stearns") and that Respondent, Robert Soifer ("Soifer") was his account executive. Claimant alleges that he is a sophisticated investor with a considerable net worth but had no prior experience with options. Claimant alleges that Soifer induced him into selling a call option but did not discuss the risks of this transaction, nor did Soifer obtain an executed options account agreement.

Claimant alleges that Soifer told him that Bear Stearns' Chief Economist believed that the treasury bond market had reached a peak and persuaded him to sell a call option. Claimant alleges that Soifer's representations as to the treasury bond market were false and misleading. In addition, Claimant alleges that Soifer failed to disclose that the call written by the Claimant was purchased by Bear Stearns for its own account. Claimant alleges that Soifer told him that there was a written opinion by the economist which outlined his position. Claimant alleges that no such report was sent to him and maintains that it does not, in fact, exist.

Claimant alleges that after the transaction was effectuated, he was sent the written opinion which stated that Bear Stearns expected a rally in the treasury bond market, the opposite of what Soifer had represented. Claimant alleges that he informed the Respondents that he would not authorize the transaction, and gave instructions to cancel the trade. Claimant alleges that contrary to his instructions, Respondents covered the trade by re-purchasing the option at a significantly higher price and to cover the price, withdrew the difference from his trading account.

Finally, Claimant alleges that Bear Stearns failed to properly supervise Soifer.

Respondents maintain that the Claimant is a wealthy and sophisticated investor who understood the risks of selling an option on treasury bonds. Respondents maintain that Mr. Soifer discussed with Claimant the advantages and disadvantages of writing the call in question before the transaction took place. Respondents maintain that Mr. Soifer conveyed to Claimant the most recent view of the treasury bond market held by Bear Stearns' chief economist prior to selling the call option.

Respondents maintain that Claimant has only experienced a reduction in profit, rather than a loss, as a result of the call option sale. Respondents maintain that Claimant chose to accept \$47,812 in proceeds from the sale of the call option, and while the Claimant could have received a higher profit had he held on to the treasury bonds in question and sold at a later date, Respondents cannot be held liable for Soifer's investment advice to a sophisticated investor which was sound when given.

Respondents maintain that Bear Stearns did in fact buy the call option sold

by Claimant, but stress that this was only done in order to make a market for the Claimant. Respondents maintain that Bear Stearns immediately sold the call option purchased from Claimant in order to hedge its position. Thus, Respondents maintain, Bear Stearns was simply providing a service for Claimant, and did not care which way the market moved, since it was not in a position to profit from a market fluctuation due to its hedged position.

Respondents maintain that custom options do not require the execution of a Bear Stearns Options Agreement, yet Bear Stearns still sent an options disclosure form to Claimant in a timely fashion. Respondent maintains that Claimant refused to complete the form.

RELIEF REQUESTED

Claimant requested compensatory damages of at least \$175,000, punitive damages in the amount of \$250,000, costs, attorneys' and expert witness fees, and such other relief as the arbitration panel deems appropriate.

Respondent requested that the claim be dismissed in its entirety and costs be assessed against Claimant.

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 Statement of Claim is hereby dismissed in its entirety.
- 2) Each party shall bear their respective costs of this action, including attorneys' fees.

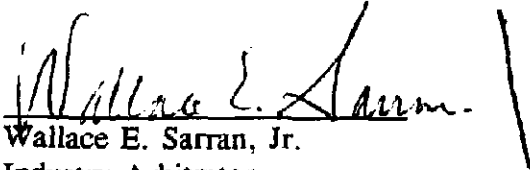
FORUM FEES

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

\$200.00	Non-refundable filing fee
\$1,500.00	Hearing Session fees (2 sessions x \$750.00)

- 1) Total forum fees in the amount of \$1700.00 are hereby assessed against Claimant and Respondents equally. Respondents are directed to pay \$850.00 to the Claimant, representing one-half the total forum fees paid by Claimant to the NASD, Inc.

Concurring Arbitrators' Signature
Name


Wallace E. Sarra, Jr.
Industry Arbitrator

Date of Decision: March 29, 1994

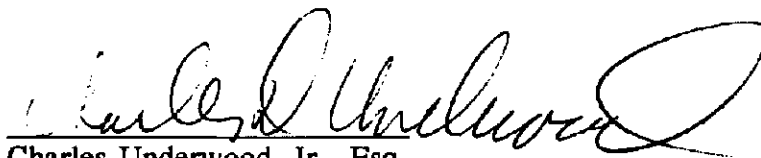
FORUM FEES

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

\$200.00	Non-refundable filing fee
\$1,500.00	Hearing Session fees (2 sessions x \$750.00)

- 1) Total forum fees in the amount of \$1700.00 are hereby assessed against Claimant and Respondents equally. Respondents are directed to pay \$850.00 to the Claimant, representing one-half the total forum fees paid by Claimant to the NASD, Inc.

Concurring Arbitrators' Signature
Name



Charles Underwood, Jr., Esq.
Public Chairperson

Date of Decision: March 29, 1994

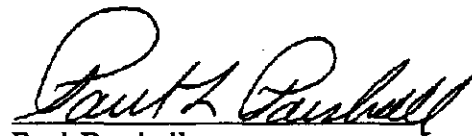
FORUM FEES

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

\$200.00	Non-refundable filing fee
\$1,500.00	Hearing Session fees (2 sessions x \$750.00)

- 1) Total forum fees in the amount of \$1700.00 are hereby assessed against Claimant and Respondents equally. Respondents are directed to pay \$850.00 to the Claimant, representing one-half the total forum fees paid by Claimant to the NASD, Inc.

Concurring Arbitrators' Signature
Name



Paul Parshall
Public Arbitrator

Date of Decision: March 19, 1994