

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Amy Seward

NASD Arbitration
No. 93-00359

Name of Respondent

Bear Stearns & Company

REPRESENTATION

For Claimant: C. Fred Cassity, Esq. - Pasadena, California

For Respondent: Terry Ross, Esq. - Keesal, Young & Logan - Long Beach, California

CASE INFORMATION

Statement of Claim filed: February 2, 1993

Claimant's Submission Agreement signed: January 29, 1993

Statement of Answer filed by Respondent: April 2, 1993

Respondent's Submission Agreement signed: March 6, 1993

HEARING INFORMATION

Hearing Date / Sessions: January 5, 1994 - Two Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

On or about May 1987, Claimant, Amy Seward (Seward) withdrew \$13,000.00 from her IRA account and shortly thereafter she withdrew \$10,000.00 from her savings account. Through her broker, who worked for Bear Stearns & Company (BS), said funds were advanced to

Phoenix Aviation which then issued her stock in double the dollar amount of the investment. An IRA account was opened at BS for a \$100.00 charge and the Phoenix stock was transferred into the IRA account as "unpriced". The broker assured Seward that her funds would be secure and that she would virtually "double her money:" and assured Seward that she could "transfer her IRA" funds to BS. The Phoenix stock subsequently became worthless.

Respondent alleged that Seward's broker, Allan Asker, was an adviser to Phoenix while he was employed by BS and in said capacity was acting outside the course and scope of his employment with BS and was not susceptible to supervision in that regard..

RELIEF REQUESTED

Claimant seeks rescissional relief and restitutionary damages according to proof, compensatory damages according to proof, punitive damages, treble damages and attorney fees under RICO plus costs.

Respondent seeks dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

The parties stipulated to have a one member panel hear this claim.

At the close of the January 5, 1994 hearing, the arbitrator called for post-hearing submissions.

The parties have agreed that the Award in this matter may be executed in either 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 remains on file with the NASD.

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. Respondent, Bear Stearns & Company, is liable and shall pay to Claimant, Amy Seward, the sum of \$23,000.00 plus 10% interest compounded annually to date of the award, and subject to further interest at 10% compounded beginning 30 days after service of this award on Respondent.
2. Payment to Claimant to reimburse her for any penalties or other expenses incurred in returning the \$13,000.00 withdrawn from the IRA account, plus the 10% interest on this award to an existing IRA or a new IRA. Claimant is not

- to suffer possible losses as a result of IRS regulations re: transfer out of and into IRA accounts.

3. Respondent shall reimburse Claimant \$950.00 for costs and fees.
4. All claims under RICO are denied.
5. All claims for punitive damages are denied.
6. The parties shall each bear their respective costs and fees (except as in #3, above) including attorneys' fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed:

<u>Total fees:</u>	
Two hearing sessions @ \$750 / ea.	- \$1,500.00
Claimant's 1/2 share	- \$750.00
<u>Hearing session deposit previously paid</u>	<u>- \$750.00</u>
Balance due	- <u>\$0.00</u>
 Respondent's 1/2 share	 - <u>\$750.00</u>

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

<u>ARBITRATORS</u>	
Name	Public / Industry
Aaron Fenton	Public Chairperson

Concurring Arbitrator's Signature
