

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant(s)

Lea Stalmaster, individually, as
Trustee of the Morse-Stalmaster
Family Trust and of the Terlea
Productions Retirement Trust, and
as Custodian of the Lea Stalmaster
Special Account, and
Terrell Clark Morse, individually,
and as Trustee of the Morse-
Stalmaster Family Trust and of the
Terlea Productions Retirement
Trust

NASD Arbitration
No. 93-02168

Name of Respondent(s)

Bear Stearns & Company, Inc.
Avi Rojany

REPRESENTATION

For Claimants: Michael A. Bertz, Esq., Los Angeles, California

For Respondents: Michael M. Gless, Esq., Keesal, Young & Logan,
Long Beach, California

CASE INFORMATION

Statement of Claim filed: June 3, 1993
Claimants' Opposition to Motion to Dismiss upon the timing of
commencement of this arbitration; and Declaration of Michael A.
Bertz filed: September 23, 1993
Claimants' Response to Respondents' Rely Memorandum, in opposition
to Motion to Dismiss filed: October 29, 1993
Claimants' Submission Agreement signed: February 26, 1993

Joint Statement of Answer filed by Respondents: August 16, 1993
Respondents' Motion to Dismiss filed: August 6, 1993
Respondents' Reply Memorandum in support of Motion to Dismiss filed:
October 27, 1993
Respondents' Submission Agreement signed: August 4, 1993

HEARING INFORMATION

Pre-Hearing Conference Date(s)/Session(s):

March 18, 1994 (one session)

May 31, 1994 (one session)

Hearing Date(s)/Session(s): July 6, 1994 (two sessions)
July 7, 1994 (two sessions)
July 8, 1994 (one session)
July 12, 1994 (two sessions)
July 13, 1994 (one session)

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimants alleged that this matter involves a long-term relationship in which a broker-dealer and its account executive took advantage of the trust and confidence which two entertainment industry executives placed in these Respondents -- who misled Claimants about the conduct of their personal/Family Trust account between November, 1981 and January, 1991; who engaged in excessive trading in that account between November 30, 1981 and March, 1987 involving in excess of \$2 million in purchases of bonds alone, and the turnover, of what was to have been stable bond investments, 11 times in these 64 months when the entire average equity of \$188,000.00 during that period is calculated as having been applied to the bond transactions alone, yielding a commission drain to the benefit of these Respondents of approximately \$140,000.00 and a decline of \$244,000.00 in the value of Claimants' portfolio from what it would have been worth if their account had not been wrongfully handled; who, as a part of this excessive trading, engaged in in-and-out trading, in short-term switching of long-term investments for like quality investments with no purpose other than the generating of commissions, and in heavy use of margin; who recommended, purchased and then maintained overly-concentrated positions in highly speculative securities which resulted in losses of \$221,712.00; and who engaged in lulling conduct to retain control of the Family Trust account and the transactions and commissions generated by that account, and to avoid and/or delay the bringing of any legal action by Claimants to challenge this conduct. Claimants further alleged that this matter involves recommendations for the purchase of non-investment grade/unsuitable securities in Claimants' pension and profit sharing account and the holding of those positions with no protective measures as the value of those securities steadily disintegrated from August, 1989 through January, 1991, which involved losses of \$42,379.00. Claimants further alleged the following claims with respect to their investments: fraud and deceit; and breach of fiduciary duty.

Respondents denied Claimants' allegations of wrongdoing and

asserted various affirmative defenses including, but not limited to, allegations that Ms. Stalmaster stated she had a net worth of approximately \$1.5 million and an annual income of over \$150,000.00 and that Ms. Stalmaster's investment objectives were income and growth. Respondents further alleged that all risks concerned in investing in stocks and bonds were fully explained to Claimants and they knowingly, willingly, and voluntarily assumed the risk of investing in the market. Respondents further alleged that Claimants' claims are ineligible pursuant to Section 15 of the National Association of Securities Dealers, Inc. (NASD) Code of Arbitration Procedure and that Claimants' action is barred by the provisions of CCP Sections 337, 338, 339 and 340 and all other applicable statutes of limitations.

RELIEF REQUESTED

Claimants requested an award against Respondents, jointly and severally, as follows:

On the first and second claims:

1. Damages of \$648,091.00 or according to the proofs; and
2. Punitive and exemplary damages according to the proofs.

On all the claims:

1. Costs of this arbitration;
2. Interest from March 31, 1987 on the damages awarded for excessive trading of the Lea Stalmaster/Morse-Stalmaster Family Trust account;
3. Interest from January 31, 1991 on all other damages awarded in this matter; and
4. Such other and further relief as the arbitration panel may deem just and proper.

Respondents requested:

1. That Claimants take nothing by their Statement of Claim;
2. Costs; and
3. Such other and further relief as may be proper.

OTHER ISSUES CONSIDERED AND DECIDED

The panel is cognizant of and governed by the Director's Section 15 Ruling of October 28, 1993.

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 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 by Claimants, including the claims for punitive and exemplary damages are dismissed.

2. The parties shall each bear their respective costs including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the following forum fees are assessed: The NASD shall retain the \$1,000.00 hearing session deposit previously deposited by Claimants as an assessment of forum fees against Claimants for one hearing session. Respondents are jointly and severally liable for and shall pay the remaining forum fees in the amount of \$7,600.00, calculated as follows: Two pre-hearing sessions times \$300.00/session plus eight hearing sessions times \$1,000.00/session minus the \$1,000.00 retained by the NASD.

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

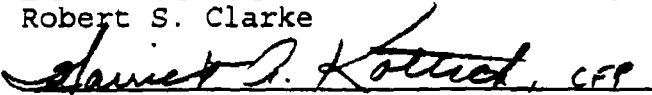
ARBITRATORS

<u>Name</u>	<u>Public / Industry</u>
Sandra L. Malek, Esq.	Public Arbitrator
Robert S. Clarke	Public Arbitrator
Harriett A. Kottick, CFP	Industry Arbitrator

Concurring Arbitrators' Signatures

Sandra L. Malek, Esq.

Robert S. Clarke


Harriett A. Kottick, CFP

Date of Decision: 7/13/94