

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Bear Stearns & Company

93-04479

Name of Respondent

Peter Gallo

REPRESENTATION

For claimant Bear Stearns & Co., Inc. ("claimant") appeared William T. Marshall, Jr., Esq., of the law firm Sullivan & Marshall located in New York, New York.

Respondent Peter Gallo ("respondent") did not appear at the evidentiary hearing.

CASE INFORMATION

Statement of Claim filed: October 28, 1993.

Claimant's Submission Agreement signed on: October 26, 1993.

Statement of Answer and Counterclaim filed by respondent on: July 13, 1995.

Amended Counterclaim filed by respondent on: August 1, 1995.

Respondent's Submission Agreement signed on: June 27, 1995.

HEARING INFORMATION

Hearing Dates/Sessions: April 18, 1997 - two sessions

The hearings were conducted at the office of NASD Regulation located at 125 Broad Street in New York, New York.

CASE SUMMARY

Claimant alleged that on or about September 16, 1987, respondent opened a margin securities account it and executed a new account form and customer agreement which provided that any

controversy would be settled by arbitration. Claimant further alleged that respondent made trades primarily in Phillipine Long Distance Telephone ("PHI"). Claimant also alleged that around October 26, 1987, it received what turned out to be an erroneous dividend report from Midwest Clearing Corporation/Midwest Securities Trust Company that PHI had a two for one stock split and a 40% stock dividend so it credited respondent's account for the stock split bringing his share total to 6,000. Claimant contended that on October 27, 1987 respondent sold all 6,000 shares. Claimant further contended that based on the erroneous report, it deposited and additional 1,200 shares in respondent's account on October 28 which were sold by him two days later.

Claimant asserted that respondent's account is short by \$30,384.87 as a result of the mistaken transaction and that he has refused to resolve this matter with claimant.

Respondent maintained that he held 3,000 shares of PHI in his account with claimant on October 26, 1987 and confirmed with the operations manager that he had cash of \$25,275.00, market value of \$71,272.00, equity of \$61,740.00 and buying power of \$50,550.00. Respondent further maintained that on October 27, 1987 he was informed that his cash was \$45,880.00, market value of \$9,467.00, equity of \$52,253.00 and buying power of \$91,760.00. Respondent also maintained that his broker confirmed that PHI stock split and the credit was received. Respondent contended that he relied on claimant's representations and although it was aware of the problem with the report on October 28, that information was not relayed to him. Respondent further contended that he entered into a transaction to purchase a real estate company and learned on November 12, 1987 that his account was frozen with a negative \$45,000.00 balance. Respondent also contended that because of the problems with the securities account, he defaulted on his real estate purchase and forfeited a \$22,000.00 deposit.

Respondent asserted that he rejected all of claimant's proposals for resolving the dispute and during the disputed period the account remained frozen and exposed to market risk. Respondent further asserted that he did not authorize claimant to place its errors in his account creating the debit balance. Respondent also asserted that claimant's errors led to his losses and that as a result of the above, he has suffered losses for which the claimant should be held liable.

RELIEF REQUESTED

Claimant requested \$30,384.87 in damages plus interest at the prevailing rate, attorney's fees, costs and other such relief as the panel deems appropriate.

Respondent requested that the claims be dismissed in their entirety. Respondent further requested \$33,655.07 plus interest from November 7, 1987 relating to the original cash in his account; \$9,949.44 for trading losses from false balances plus interest from November 12, 1987; attorney and CPA fees of \$6,700.00; \$22,000.00 for his lost deposit; \$500,000.00 for loss opportunity costs; \$1,000.00 in costs; \$750,000.00 punitive damages; and attorney's fee for acting Pro Se in the amount of one-third of the judgment; and, such other relief as the panel deems appropriate.

OTHER ISSUES CONSIDERED & DECIDED

The arbitration panel made the following rulings concerning respondent who failed to appear at the evidentiary hearing conducted in this matter:

1. Pursuant to Rule 10101 of the NASD Code of Arbitration Procedure (the "Code"), the panel found subject matter jurisdiction over this entire controversy.
2. The panel found that respondent executed a Submission Agreement and as such the panel found personal jurisdiction over respondent pursuant to Rule 10301 of the Code.
4. In accordance with Rules 10310, 10315 and 10318 of the Code, the panel found that NASD Regulation provided respondent with "due notice" of the hearing conducted in this matter by regular and certified mail. The panel therefore, determined to proceed with the hearing without respondent, whose absence was unexcused.

The parties who appeared at the hearing, 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 it was agreed that the parties are 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. Respondent Peter Gallo be and hereby is liable and shall pay to claimant Bear Stearns & Company, Inc. \$30,385.00 in damages.
2. The claims of respondent Peter Gallo against claimant Bear Stearns & Co, Inc. are dismissed with prejudice.
3. The parties shall bear their respective attorneys fees and costs.
4. All other relief requests are denied in their entirety.

FORUM FEES

Pursuant to Rule 10205(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation shall retain the \$500.00 non-refundable filing fee filed by claimant and have assessed against the respondent a \$250.00 non-refundable filing fee under Rule 10332(c) for the Counterclaim asserted. NASD Regulation shall retain the claimant's non-refundable filing fee and have assessed the following forum fees:

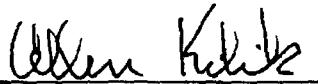
two sessions x \$600.00	= \$1,200.00
minus claimant's \$600.00 deposit	= \$ 600.00
total outstanding	= \$ 600.00

Claimant Bear Stearns & Co., Inc. be and hereby is liable for the sum of \$1,200.00 representing the total amount of forum fees assessed. Claimant previously deposited \$600.00 with NASD Regulation. Therefore, claimant shall pay \$600.00 to NASD Regulation as satisfaction of the outstanding forum fees.

Respondent Peter Gallo be and hereby is liable for the sum of \$250.00 representing the non-refundable filing fee for the Counterclaim asserted. Therefore, respondent Peter Gallo shall pay to NASD Regulation \$250.00 in satisfaction of outstanding fees.

ARBITRATORS' SIGNATURES

I, Allen Kilik, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



Allen Kilik
Public Chairperson

I, Henry H. Balter, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Henry Balter
Public Panelist

I, William Smith, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

William Smith
Public Panelist

Date of Decision: May 20, 1997

two sessions x \$600.00	= \$1,200.00
minus claimant's \$600.00 deposit	= \$ 600.00
total outstanding	= \$ 600.00

Claimant Bear Stearns & Co., Inc. be and hereby is liable for the sum of \$1,200.00 representing the total amount of forum fees assessed. Claimant previously deposited \$600.00 with NASD Regulation. Therefore, claimant shall pay \$600.00 to NASD Regulation as satisfaction of the outstanding forum fees.

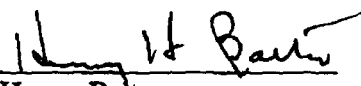
Respondent Peter Gallo be and hereby is liable for the sum of \$250.00 representing the non-refundable filing fee for the Counterclaim asserted. Therefore, respondent Peter Gallo shall pay to NASD Regulation \$250.00 in satisfaction of outstanding fees.

ARBITRATORS' SIGNATURES

I, Allen Kilik, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Allen Kilik
Public Chairperson

I, Henry H. Balter, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



Henry Balter
Public Panelist

I, William Smith, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

William Smith
Public Panelist

Date of Decision: May 20, 1997

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Respondent Peter Gallo be and hereby is liable for the sum of \$250.00 representing the non-refundable filing fee for the Counterclaim asserted. Therefore, respondent Peter Gallo shall pay to NASD Regulation \$250.00 in satisfaction of outstanding fees.

ARBITRATORS' SIGNATURES

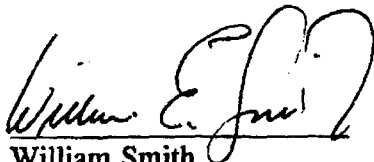
I, Allen Kilik, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Allen Kilik
Public Chairperson

I, Henry H. Balter, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.

Henry Balter
Public Panelist

I, William Smith, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein, and who executed this instrument which is my award.



William Smith
Public Panelist

Date of Decision: May 20, 1997