

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Mark Chalfin

94-00049

Name of Respondents

Bear Stearns & Co., Inc.
Edward B. Martin

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on January 4, 1994, Claimant Mark Chalfin, who appeared Pro Se, alleged that he gave an order to buy 200 shares of MFS Communications Co., Inc. ("MFS") stock at the market price to Respondent Edward B. Martin ("Martin"), a broker at Respondent Bear Stearns & Co., Inc. ("Bear Stearns"). Claimant further alleged that Respondents did not execute this trade at the market price, and thus he bought 200 shares of MFS at a higher price than he should have. Claimant contended that on November 10, 1993, he authorized the sale of his 200 shares of MFS with Respondents but Respondents never executed this sell order. Claimant further contended that on November 22, 1993 he asked Respondents to send him his stock certificates in MFS so he could write covered calls. Claimant alleged that Respondents never sent him the stock certificates even after he paid off the balances due in his account, resulting in him having lost several opportunities to write covered calls. As a result of the above, Claimant contended that he has suffered damages for which the Respondents should be held liable.

Respondents Bear Stearns & Co., Inc. and Edward B. Martin, through Bear Stearns' in-house counsel William C. Mallery, New York, New York, maintained that Claimant agreed on September 2, 1993 to purchase 200 shares of MFS at a price of \$49.00 a share or better, and that an order was placed to purchase this stock that day at \$49.00 a share. Respondents further maintained that the MFS

stock never traded as low as \$49.00 a share for the rest of that day, and thus the order was never executed. Respondents contended that on September 7, 1994 Claimant authorized the purchase of 200 shares of MFS at the market price when it was trading at approximately \$54.00 a share. Respondents further contended that they never received authorization from Claimant to sell the 200 shares of MFS stock. Respondents maintained that Claimant's stock certificates in MFS were never sent to him because he failed to fully pay for the stock. As a result of the above, Respondents contended that they should not be held liable in this matter.

RELIEF REQUESTED

Claimant Mark Chalfin requested \$2,475.00 in actual damages.

Respondents Bear Stearns & Co., Inc. and Edward B. Martin requested that the Claimant's Statement of Claim be dismissed in its entirety, and that costs be assessed against Claimant.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single public arbitrator, Anne Cugliani, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on January 3, 1994, by Respondent Bear Stearns & Co., Inc. on April 8, 1994, and by Respondent Edward B. Martin on April 8, 1994.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimant Mark Chalfin against Respondent Bear Stearns & Co., Inc. and Edward B. Martin are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

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AFFIRMATION

I, ANNE CUGLIANI, do hereby affirm upon my oath of arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in cursive script, appearing to read "Anne Cugliani", is written over a horizontal line.

Signature of Arbitrator

DATE OF DECISION: September 21, 1994

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STATE OF: NY

SS:

COUNTY OF: NY

On this 5 day of February 19 94, before me personally appeared **ANNE CUGLIANI** to me known and known before me to be the individual described in and who executed the foregoing instrument and she duly acknowledged to me that she executed the same.

Deborah A. DeJesus

DEBORAH A. DEJESUS
Notary Public, State of New York
No. 02DE5022979
Qualified in New York County
Commission Expires January 24, 1996