

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Names of Claimants

Mark and Lora J. Gerhardt

95-05440

Names of Respondents

Noble Investment Co. of Palm Beach
Bear Stearns Securities Corp.
Jeffrey B. Jerome

REPRESENTATION

For Claimants, Mark Gerhardt and Lora Gerhardt ("The Gerhardts"): pro se (Mark Gerhardt), Hillsboro Beach, Florida.

For Respondents, Noble Investments ("Noble") and Bear Stearns Securities Corporation ("Bear Stearns"): Cory B. Nass, Esq. of Noble Investments, Boca Raton, Florida.

Respondent Jeffrey Jerome ("Jerome") of Highland Beach, Florida: pro se. (see "Other Issues").

CASE INFORMATION

Statement of Claim filed: November 16, 1995.

Claimants' Submission Agreement signed on November 9, 1995.

Respondent Noble's Statement of Answer filed: February 1, 1996.

Respondent Noble's Submission Agreement signed on January 31, 1996 by Nico P. Pronk on behalf of Noble.

Respondents, Bear Stearns and Jerome did not file a Statement of Answer or sign Submission Agreements as required by Sections 12 and 25 of the Code. (see "Other Issues")

HEARING INFORMATION

On June 11, 1996, in Fort Lauderdale, Florida, a pre-hearing conference lasting 1 session was conducted, via telephone conference call, with an arbitrator.

On June 13, 1996, in Fort Lauderdale, Florida, a hearing lasting 2 sessions was conducted.

CASE SUMMARY

Claimants alleged that Jerome, an employee of Noble, informed them of an extremely rare investment opportunity available through Noble. Claimants further alleged that Jerome misled them as to information Noble had regarding this investment opportunity. Claimants additionally alleged that Jerome told them the price of the stock would double and after the Gerhardt's initial purchase, when the stock price dropped slightly, the Gerhardt's were strongly encouraged to take advantage of the price break. In addition, Claimants alleged that Jerome was very aware of their need for very short term investments of 30 days or less and Jerome assured the Claimants that the term would be no more than 30 days. When Jerome was fired, Claimants alleged they were told by Jason Pollock that Cluckers Wood Roaster Chicken, Inc. was a long term held stock and that no one knew how the deal was going to come together, completely contradicting everything Jerome told the Claimants.

Respondent Noble denied each and every allegation contained in Claimants' Statement of Claim. Respondent Noble alleged that Claimants failed to prove their allegations and Noble should not be liable for Claimant's investment loss. In addition, Noble alleged that the Claimants knowingly and voluntarily purchased shares of Cluckers and bear the financial responsibility for their own decisions.

Respondent Noble alleged the affirmative defenses of failure to state a cause of action, statute of limitations, and waiver.

RELIEF REQUESTED

Claimants requested damages in the amount of \$905.00 plus the \$30.00 filing fee paid by the Claimants to the NASD.

Respondent Noble requested the claim to be dismissed in its entirety and/ or a judgment for no cause of action be entered against the Claimants, plus compensation for all costs and reasonable attorney's fees.

OTHER ISSUES CONSIDERED & DECIDED

1. The parties have agreed that a handwritten, signed Award may be entered. In this case, the parties have agreed to receive a conformed copy of the Award while the original remains on file with the NASD.

2. Respondent Jerome did not submit an executed Submission Agreement nor did he appear at the hearing. Based upon the evidence submitted in Arbitrator's Exhibit No. 1 regarding hearing notices to the parties, this Arbitrator found that proper notice existed as well as jurisdiction pursuant to Section 12(a) of the Code of Arbitration Procedure over Respondent. Pursuant to Section 29 of the Code of Arbitration Procedure and based upon evidence in Arbitrator's Exhibit No.1, this Arbitrator proceeded with the hearing in his absence.

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. Respondents, Noble and Bear Stearns are found not liable and, therefore, all claims against them are hereby dismissed.
2. Respondent, Jerome, is found liable and shall pay to the Claimants the amount of \$905.00.
3. Respondent Noble's request for costs and attorney's fees is denied.
4. All other claims are hereby denied.

OTHER COSTS

The parties shall each bear all costs and expenses incurred by them in connection with this proceeding, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the Arbitrator has assessed forum fees in the amount of \$45.00 (1 pre-hearing conference x \$15.00 plus 2 sessions x \$15.00).

1. Claimant is hereby assessed Forum fees in the amount of \$15.00 for which the NASD shall retain the \$15.00 previously deposited by Claimant in full satisfaction thereof.
2. Respondents, Noble and Jerome, are hereby assessed Forum Fees, jointly and severally, \$30.00 which shall be paid to the National Association of Securities Dealers, Inc.
3. The NASD shall retain the non-refundable filing fee of \$15.00 paid by the Claimants.
4. Respondents Noble and Bear Stearns shall each submit the \$100.00 member surcharge due and payable to the NASD.

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

ARBITRATOR

Arbitrator's Signature

A handwritten signature in dark ink, appearing to read 'Seth L. Finkel', is written over a horizontal line.

Seth L. Finkel, Esq.
(Sole Public Arbitrator)

Date of Decision: July 30, 1996