

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the Matter of the Arbitration Between

Max L. Burdick Family
InterVivos Trust Revocable Trust

v.

NASD Regulation, Inc.
No. 96-00209

Charles Schwab & Company, Inc.
Bear Stearns Securities Corporation
Ronald M. Berman
Steven Dantus

REPRESENTATION OF PARTIES

Max L. Burdick Family InterVivos Trust Revocable Trust ("**Claimant**") was represented by Jay Sheen, Esq., Robinson & Sheen, Salt Lake City, Utah.

Charles Schwab & Company, Inc. was represented by Gilbert R. Serota, Esq., Howard Rice Nemerovski Canady Falk & Rabkin, San Francisco, California.

Bear Stearns Securities Corporation, Ronald M. Berman and Steven Dantus were represented by Philip A. McLeod, Esq., Keesal Young & Logan, San Francisco, California.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about January 29, 1997. Claimant's Submission Agreement was signed on February 27, 1996.

The Statement of Answer for Charles Schwab & Company, Inc. was filed on or about May 6, 1996. The Submission Agreement for Charles Schwab & Company, Inc. was signed on May 1, 1996.

The Joint Statement of Answer for Bear Stearns Securities Corporation, Ronald M. Berman and Steven Dantus was filed on or about . The Submission Agreement for Bear Stearns Securities Corporation was signed on May 1, 1996. The Submission Agreement for Ronald M. Berman was signed on April 30, 1996. No Submission Agreement was received from Steven Dantus.

HEARING INFORMATION

Pre-hearing conferences were held on July 29, 1996, October 22, 1996 and December 27, 1996. The hearing was held on March 19-20-21, 1997 in Salt Lake City, Utah for a total of 6 sessions.

CASE SUMMARY

Claimant alleges that the Respondents engaged in reckless and negligent misrepresentation, breach of contract, negligence and breach of fiduciary duty. Claimant further alleges that the Respondents use of a highly leveraged strategy involving naked puts and covered calls in Ballard Medical Products in Claimant's trust account were completely inappropriate.

Respondents Bear Stearns, Berman and Dantus denied the allegations set forth in the Statement of Claim. Respondents specifically argued that the majority of the losses suffered in the Claimant's account took place at a prior firm. Respondents further argued that Claimant's account value increased while with the Respondents and that all transactions were approved or ratified by the Claimant.

RELIEF REQUESTED

Claimant requested an award in the amount of \$520,000 in actual damages and \$1,040,000 in punitive damages. Claimant also requested an award of interest, costs and attorney's fees.

Respondent requested that the claims asserted against them be denied in its entirety and that they be awarded costs.

OTHER ISSUES CONSIDERED & DECIDED

On the first day of the hearing all parties stipulated to the dismissal of all claims against Steven Dantus.

The panel granted Charles Schwab & Company's Motion to Dismiss on January 17, 1997.

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with NASD Regulation, Inc., Office of Dispute Resolution.

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. Bear Stearns and Ronald Berman, jointly and severally, shall pay to Claimant the sum of \$66,219.00.
2. Each side shall bear their own costs.

FORUM FEES

Forum fees are calculated at the rate of \$1,000 per hearing session and \$300 for each pre-hearing conference, if any. There were 6 sessions x \$1,000 plus 3 pre-hearings x \$300 = \$6,900 in forum fees. Pursuant to §43(b) of the NASD Regulation, Inc., Office of Dispute Resolution Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to § 43(c) of the Code of Arbitration Procedure, the parties shall divide the forum fees 50%-50%, with the claimant bearing 50%, and the respondents jointly and severally bearing 50%.

Total Fees	
6 Hearing Sessions @ \$1000.00 =	\$6,000.00
3 Pre-Hearing Conf. @ \$300.00 =	\$ 900.00
Total	<u>\$6,900.00</u>

Claimant's 1/2 share	\$3450.00
Claimant's credit for deposit	<u>\$1000.00</u>
Claimant's balance	\$2450.00


Respondent's 1/2 share (joint and several)	<u>\$3450.00</u>
Respondent's Balance	\$3450.00

Pursuant to §43(c) of the Code, NASD Regulation, Inc. shall retain the non-refundable filing fee in the amount of \$250 and shall retain as forum fees the hearing session deposit in the amount of \$1,000 previously deposited with NASD Regulation, Inc. by the Claimant Max L. Burdick Family InterVivos Trust Revocable Trust.

Pursuant to §45 of the Code, the NASD shall retain the member surcharge fees in the amount of \$500 previously paid by Charles Schwab & Company and Bear Stearns Securities Corporation.

Fees are payable to the NASD, Regulation, Inc.

Dated:



A. Robert Thorup, Esq.
Public Arbitrator, Presiding Chair

4-15-97

Date served: 4/22/1997

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George J. Karlsvén
Public Arbitrator

4/15/97

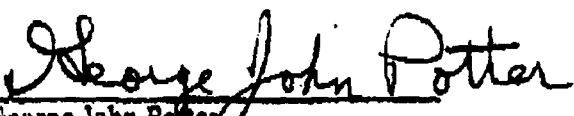
George John Potter
Industry Arbitrator

Date served: 4/22/1997

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George J. Karlsvén
Public Arbitrator



George John Potter
Industry Arbitrator

Date served: 4/22/1997