

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Thomas S. Babcock

96-00884

Name of Respondents

Bear Stearns Securities Corp.
Duncan Gillan

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 27, 1996, Claimant Thomas S. Babcock ("Claimant") alleged that Respondents Bear Stearns Securities Corp. ("Bear Stearns") and Duncan Gillan ("Gillan") made unsuitable investment decisions for him. Claimant further alleged that Respondents solicited the Claimant and convinced him to purchase Bank of America stock on margin. Claimant asserted that he informed Respondents that he only had emergency funds which he did not want to risk. Claimant further asserted that Respondents subsequently convinced him to sell Bank of America and buy 1000 shares of Starter Corporation also on margin on October 6, 1993. Claimant contended that he was neither offered nor received a prospectus for the Starter stock. Claimant further contended that Respondents failed to inform him that Starter Corporation stock was trading for less than six months, that the company intended to purchase First Pick stores or that the company had never paid dividends. Claimant alleged that Respondents convinced him to buy stock on margin and that he had never made such risky investments at other firms. Claimant further alleged that despite numerous margin calls, Respondents repeatedly assured him that the decrease in the value of the stock was being handled and was told to wait. Claimant asserted that due to the wrongdoing of the Respondents, he suffered damages for which the Respondents should be held liable.

Respondents Bear Stearns Securities Corp. and Duncan Gillan, through their representative and in-house counsel, Cara Aber, Esq., maintained that Claimant is a sophisticated investor, who at age 49 was the president of Western Bio-Med Enterprises, had an annual salary of \$100,000.00 and a net worth of \$1,200,000.00 and had \$50,000.00 invested in the stock market with other securities firms. Respondents further maintained that Claimant's investment objective was a businessman's risk and that he chose to purchase securities on margin; thereby purchasing a greater amount of stock with lower cash layout. Respondents contended that the Claimant was fully aware of the risks involved in margin trading which is evidenced by his signature on a form where he agreed to trade on margin. Respondents further contended that since the stocks that the Claimant purchased were not initial public offerings, no

prospectus was sent to him. Respondents maintained that they disclosed all available information to the Claimant including the fact that Starter Corp. was publicly traded for four months, had been in business since 1974 and had paid no dividends. Respondents further maintained that no verbal or written assurances were provided concerning Starter's stock value. Respondents contended that Claimant did not indicate he was using emergency money and the only financial information disclosed was an annual salary of 100K and a net worth of \$1.2 million. Respondents further contended that they committed no wrongdoing and requested that the claims against them be dismissed.

RELIEF REQUESTED

Claimant Thomas S. Babcock requested \$10,000.00 in actual damages.

Respondents Bear Stearns Securities Corp. and Duncan Gillan requested that the claims of the Claimant be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

The arbitrator considered and reviewed all documentation submitted by the parties concerning Respondents' First Request for Documents, including, but not not limited to, Respondents' request to direct Claimant to respond to said document request. The arbitrator denied Respondents' Request to direct Claimant to produce the appropriate documents.

AWARD

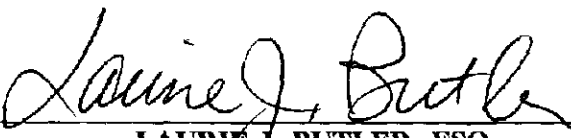
Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Laurie J. Butler, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Thomas S. Babcock on February 16, 1996, and by the Respondent Bear Stearns Securities Corp. on May 8, 1996 but not by Respondent Duncan Gillan as is required by Sections 12 and 13 of the NASD Code of Arbitration Procedure.

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 Thomas S. Babcock against Respondents Bear Stearns Securities Corp. and Duncan Gillan are denied in their entirety.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc.

AFFIRMATION

I, **LAURIE J. BUTLER, ESQ.**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.


LAURIE J. BUTLER, ESQ.

DATE OF DECISION: October 8, 1996