

N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Stephen G. Kennedy

96-01136

Name of Respondents

Bear Stearns & Company
Christine E. Gibson

REPRESENTATION

Claimant Stephen G. Kennedy ("Claimant") was represented by David H. Zimmer, Esq., Potomac, MD.

Respondents Bear Stearns & Company ("Bear Stearns") and Christine E. Gibson ("Gibson") were represented by Philip McLeod, Esq. and Peter Morgan, Esq., Keesal, Young and Logan, San Francisco, CA.

CASE INFORMATION

The Statement of Claim was filed March 14, 1996.

Claimant's Uniform Submission Agreement was signed March 25, 1996.

The Joint Statement of Answer of Bear Stearns and Gibson (collectively "Respondents") was filed April 29, 1997.

Neither Bear Stearns nor Gibson filed an executed agreement to arbitrate.

HEARING INFORMATION

Hearing Dates/Sessions: May 28, 1997/2 sessions
 May 29, 1997/2 sessions
 May 30, 1997/2 sessions

Hearing Location: Doubletree Hotel
 Baltimore, Maryland

CASE SUMMARY

Claimant filed a statement of claim alleging that Claimant had become acquainted with Respondent Gibson through another brokerage firm. Claimant alleged that after Gibson became employed by Respondent Bear Stearns, she solicited Claimant to open an account with Bear Stearns and allegedly stated that she could do "wondrous things" for Claimant at Bear Stearns and that she would be privy to useful information at Bear Stearns. The statement of claim alleged that Gibson stated that she would act only on recommendations made by Bear Stearns, and not contrary to such recommendations. Notwithstanding

such representations, Claimant alleged, Gibson solicited transactions contrary to, or unsupported by, recommendations of the firm, including short sales of securities where Bear Stearns had not established a short-sale recommendation. Claimant further alleged that his account was subjected to churning or excessive trading, experienced substantial losses, a high level of turnover and excessive commissions. Claimant alleged that Respondents' actions included material misrepresentations or fraudulent omissions of material facts, and a breach of a fiduciary duty to Claimant. Claimant also alleged that Bear Stearns failed to properly supervise Gibson in the management of Claimant's account.

Respondents denied the allegations of wrong-doing asserted in the Statement of Claim. Respondents Answer maintained that all transactions in the account were authorized, and were consistent with Claimant's objective of trading profits in the account. Respondents maintained that transactions in the account were consistent with Claimant's trading at other firms, and were not unsuitable in light of Claimant's net worth and investment experience. Respondents denied that activity or commissions in the account were excessive, and maintained that Claimant controlled the transactions and strategy in the account. Gibson contended that some losses resulted from strategies chosen by the Claimant over contrary recommendations by Gibson. Bear Stearns maintained that it did take steps to monitor and appropriately supervise Gibson in the management of Claimant's account. Respondents maintained that any losses suffered by Claimant were the result of Claimant's own investment decisions and fluctuations of the market.

RELIEF REQUESTED

For each count contained in his statement of Claim, Claimant requested \$500,000.00 in compensatory damages, plus interest, punitive damages and attorney's fees. At the hearing, Claimant presented several alternate calculations of compensatory damages, ranging from approximately \$268,000.00 up to \$607,000.00.

In their Answer to the Statement of Claim, Respondents requested that the Statement of Claim be dismissed. At the close of hearing, Respondents additionally requested an award of costs.

OTHER ISSUES CONSIDERED & DECIDED

The parties have 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 parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

The panel determined that pursuant to the by-laws of the NASD, Respondents Bear Stearns and Gibson are required to submit to this arbitration notwithstanding their failure to file executed Submission Agreements. Therefore, Respondents are bound by the panel's rulings and determinations.

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. That the claim of Claimant Stephen G. Kennedy is denied in its entirety. Claimant's evidence did not support the allegations made against either Respondent for fraudulent nondisclosure, misrepresentation, churning, excessive trading or breach of fiduciary duty. The claim against Respondent Bear Stearns for a failure to supervise is also denied in its entirety. While the evidence presented by Claimant and Respondents indicated that the firm's supervision of Claimant's account was perfunctory and arguably inadequate, Claimant failed to establish that a failure to supervise resulted in losses in Claimant's account.
2. That Claimant's requests for compensatory and punitive damages are also denied.
3. That each party shall bear its own costs and disbursements including attorney's fees.
4. That any and all relief not specifically addressed herein is denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

6 sessions x \$1,000.00 = \$6,000.00

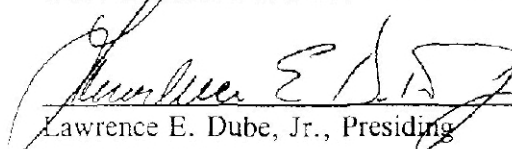
Forum Fees are assessed at \$1,000.00 to Claimant and \$5,000.00 to Respondent Bear Stearns. Claimant shall receive credit for the \$1,000.00 hearing session deposit previously submitted to the NASD Regulation, leaving no further assessment due from Claimant. Respondent Bear Stearns has a net assessment due of \$5,000.00.

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

DATE

6/23/97

CONCURRING ARBITRATORS' SIGNATURES



Lawrence E. Dube, Jr., Presiding
Public Arbitrator

Paul A. Yates
Public Arbitrator

Arthur J. Salzberg
Industry Arbitrator

Date Decision Served by NASD Regulation: June 25, 1997

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. That the claim of Claimant Stephen G. Kennedy is denied in its entirety. Claimant's evidence did not support the allegations made against either Respondent for fraudulent nondisclosure, misrepresentation, churning, excessive trading or breach of fiduciary duty. The claim against Respondent Bear Stearns for a failure to supervise is also denied in its entirety. While the evidence presented by Claimant and Respondents indicated that the firm's supervision of Claimant's account was perfunctory and arguably inadequate, Claimant failed to establish that a failure to supervise resulted in losses in Claimant's account.
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DATE

CONCURRING ARBITRATORS' SIGNATURES

JUNE 21, 1997

Lawrence E. Dube, Jr., Presiding
Public Arbitrator

Paul A. Yates
Public Arbitrator

Arthur J. Salzberg
Industry Arbitrator

Date Decision Served by NASD Regulation:

JUNE 25, 1997

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. That the claim of Claimant Stephen G. Kennedy is denied in its entirety. Claimant's evidence did not support the allegations made against either Respondent for fraudulent nondisclosure, misrepresentation, churning, excessive trading or breach of fiduciary duty. The claim against Respondent Bear Stearns for a failure to supervise is also denied in its entirety. While the evidence presented by Claimant and Respondents indicated that the firm's supervision of Claimant's account was perfunctory and arguably inadequate, Claimant failed to establish that a failure to supervise resulted in losses in Claimant's account.
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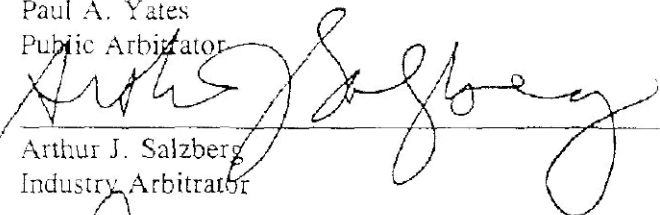
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DATE

CONCURRING ARBITRATORS' SIGNATURES

Lawrence E. Dube, Jr., Presiding
Public Arbitrator

Paul A. Yates
Public Arbitrator


Arthur J. Salzberg
Industry Arbitrator

6-22-97

Date Decision Served by NASD Regulation:

June 25, 1997