

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Arturo Espinoza de los Monteros and
Africa International Co., Ltd.,

Case Number: 96-02579

Claimants,

vs.

Bear Stearns & Co., Inc. and
Alberto C. Mariaca,

Hearing Site: Houston, Texas

Respondents.

REPRESENTATION OF PARTIES

Claimants Arturo Espinoza de los Monteros and Africa International Co., Ltd., hereinafter referred to as "Claimants," appeared through Arturo Espinoza. Claimants were previously represented by J. Eugene Clements, Esq. and Michael Kirby, Esq. of Clements, O'Neill, Pierce & Nickens LLP located in Houston, Texas.

Respondents Bear Stearns & Co., Inc. and Alberto C. Mariaca, hereinafter referred to as "Respondents," were represented by John C. Allen, Esq. of John C. Allen P.C. located in Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about May 18, 1996.

The Claimants signed the Uniform Submission Agreement on July 20, 1996.

The Respondents filed the Statement of Answer on or about August 29, 1996.

Respondent Bear Stearns & Co., Inc. signed the Uniform Submission Agreement on August 29, 1996.

Respondent Alberto C. Mariaca did not sign the Uniform Submission Agreement.

Respondents filed a Motion to Dismiss on or about January 21, 1999. Claimants did not file a Response.

CASE SUMMARY

Claimants asserted that Respondents engaged in churning, unauthorized trading, unsuitable investments, fraudulent representations, as well as other illegal and wrongful conduct. This claim involved the purchase and sale of international and domestic bonds, among other securities.

In the Statement of Claim, Claimants asserted the following causes of action, including:

- Breach of fiduciary duty;
- Unsuitable investment advice;
- Violations of federal and state securities laws;
- Common law fraud;
- Negligence; and
- Gross negligence.

Respondents denied the allegations made in the Statement of Claim. Respondents contended that the claim was an attempt to hold them liable for the decline in the Latin American and Mexican markets that occurred at the end of 1994, the effect of which was compounded by panic selling by Claimants. Respondents asserted that all trading in the accounts was consistent with Claimants' investment objectives and that Claimants actually made a small profit, rather than suffering the substantial losses alleged.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

Compensatory Damages:	\$750,000.00
Punitive Damages:	Unspecified
Interest:	Unspecified
Attorneys' Fees:	Unspecified
Other Costs:	Unspecified

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Alberto C. Mariaca did not file with NASD Dispute Resolution a properly executed submission to arbitration is are required to submit to arbitration pursuant to the Code and having answered the claim is bound by the determination of the Panel on all issues submitted.

In the Motion to Dismiss, Respondents asserted that Claimants have not been heard from since Claimants' counsel withdrew from the case. Respondents also contended that Claimants have failed to respond to the panel's April 1998 Order to produce documents. Respondents requested that the panel dismiss this matter based on Claimants' failure to prosecute his claim.

Claimants failed to appear at the July 16, 2003 telephonic hearing that addressed the Motion to Dismiss.

After considering the arguments of Respondents' counsel at the July 16th hearing, the panel decided to dismiss the claim by unanimous decision.

AWARD

The Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents' Motion to Dismiss is granted and this matter is hereby dismissed in its entirety with prejudice; and
2. Any and all relief not specifically addressed herein is denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 250.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute.

Member surcharge	= \$ 500.00
Pre-hearing process fee	= \$ N/A
Hearing process fee	= \$ N/A

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session(s) with Panel @ \$1,000.00	= \$ 1,000.00
Pre-hearing conference(s): July 16, 2003	

Two (2) Pre-hearing session(s) with Chair @ \$300.00	= \$ 600.00
Pre-hearing conference(s):	March 13, 1998
	March 17, 1998

Total Forum Fees	= \$ 1,600.00
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1. The Panel has assessed all forum fees in the amount of \$1,600.00 to Claimants, jointly and severally.

Postponement Fees

1. The panel has assessed postponement fees against Respondents, jointly and severally, in the amount of \$1,000.00 in connection with the postponement of the July 15, 1997 hearing.
2. The panel has assessed postponement fees against Claimants, jointly and severally, in the amount of \$1,000.00 in connection with the postponement of the April 29, 1998 hearing dates.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 250.00
Postponement Fees	= \$ 1,000.00
Forum Fees	= \$ 1,600.00
Total Fees	= \$ 2,850.00
Less payments	= \$ 2,000.00
Balance Due NASD Dispute Resolution	= \$ 850.00

Respondents are jointly and severally liable for:

Member Fees (Bear Stearns)	= \$ 500.00
Postponement Fees	= \$ 1,000.00
Total Fees	= \$ 1,500.00
Less payments	= \$ 1,000.00
Balance Due NASD Dispute Resolution	= \$ 500.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Sharon Jeverth Hemphill, Esq. - Public Arbitrator, Presiding Chairperson
Thomas A. Thornhill, Jr. - Public Arbitrator
Richard F. Dole, Jr., Esq. - Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

/s/ Sharon Jeverth Hemphill, Esq.
Sharon Jeverth Hemphill, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/ Thomas A. Thornhill, Jr.
Thomas A. Thornhill, Jr.
Public Arbitrator

July 30, 2003
Signature Date

/s/ Richard F. Dole, Jr., Esq.
Richard F. Dole, Jr., Esq.
Non-Public Arbitrator

July 30, 2003
Signature Date


August 11, 2003
Date of Service (For NASD Dispute Resolution use only)

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Thomas A. Thornhill, Jr. - Public Arbitrator
Richard F. Dole, Jr., Esq. - Non-Public Arbitrator

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Signature Date

Thomas A. Thornhill, Jr.
Public Arbitrator

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Public Arbitrator

Signature Date



Richard F. Dole, Jr., Esq.
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NASD Dispute Resolution, Inc.

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Richard F. Dole, Jr., Esq. - Non-Public Arbitrator

Concurring Arbitrators' Signature(s)

Sharon Jevert Hemphill, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Thomas A. Thornhill, Jr.
Public Arbitrator

7-30-03

Signature Date

Richard F. Dole, Jr., Esq.
Non-Public Arbitrator

Signature Date

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