

N.A.S.D. REGULATION AWARD

NASD, REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Laura M. Zwick

96-03688

Name of Respondents

John V. Guchone
Corporate Securities Group, Inc.

REPRESENTATION

For Claimant Laura M. Zwick appeared Sanford R. Shapiro, Esq. of the law firm of Shapiro, Rosenbaum & Liebschutz, LLP located in Buffalo, New York.

For Respondents Bear Stearns & Company, Inc., John V. Guchone, Bear Stearns Securities Corporation, and Corporate Securities Group, Inc. (collectively "Respondents") appeared Fred N. Knopf, Esq. of the law firm of Wilson, Elser, Moskowitz, Edelman & Dicke located in New York City, New York.

CASE INFORMATION

The Statement of Claim filed was on August 23, 1996.

Claimant's Submission Agreement was signed on August 23, 1996

Claimant's Stipulation of Discontinuance against Bear Stearns Securities Corporation and Bear Stearns & Company dated December 11, 1996.

A Joint Statement of Answer was filed by Respondents Corporation Securities Group, Inc. and John V. Guchone on November 14, 1996.

Respondent Corporate Securities Group, Inc.'s Submission Agreement was signed on November 8, 1996.

Respondent John V. Guchone's Submission Agreement was signed on November 12, 1996.

A Joint Statement of Answer was filed by Respondents Bear Stearns Securities Corp. and Bear Stearns & Company, Inc. on November 14, 1996.

Respondent Bear Stearns & Company, Inc.'s Submission Agreement was signed on November 13, 1996.

Respondent Bear Stearns Securities Group's Submission Agreement was signed on November 13, 1996.

HEARING INFORMATION

Pre-Hearing Conference: April 28, 1997 - One Session

Hearing Dates/Sessions: June 5, 1997 - Two Sessions

June 6, 1997 - Two Sessions

The hearing was held at the Raddison Downtown Hotel, 601 Main Street located in Buffalo, New York.

CASE SUMMARY

Claimant alleged that respondents Corporate Securities Group, Inc. ("CSGI"), was a corporation maintaining an office for the transaction of its securities business, and employed respondent Guchone as one of its registered representatives. Claimant further alleged that respondent Bear Stearns Securities Corp. ("BSSC"), was a wholly owned corporation of respondent Bear Stearns & Co., Inc. ("BSCI"), and the clearing broker responsible for handling clearing functions for customers who maintained accounts with CSGI and BSCI. Claimant contended that, on November 14, 1991, respondent Guchone prepared a BSCI form, "Report of New Account", indicating claimant's investment objectives as "safety & growth". Claimant maintained that, although the Report of New Account indicated that claimant would be trading on margin, there was never any discussion between her and respondent Guchone of margin trading. Claimant further maintained that she never authorized any margin trading, she did not understand the implications of an authorization for margin trading, and such an authorization was wholly unsuitable to her investment objectives. Claimant contended that, starting in September 1993, respondent Guchone began a series of margin purchases of stocks unsuitable to her investment objectives, which resulted in net losses to her CSGI account. Claimant alleged that, in November 1994, respondent Guchone left his employment at CSGI, transferring her accounts without notification. Claimant further alleged that, by March 1995, she came to realize the loss taken in her personal account by the margin trading, and withdrew her account from respondent Guchone's control. Claimant maintained that, from 1992 through 1995, she sustained net losses on unsuitable investments of \$82,799.00, in addition to a total margin interest of \$12,228.00, bringing her total claim for damages to \$95,027.00, plus interest and counsel fees.

Respondents Guchone and respondents CSG maintained that claimant demonstrated an understanding comparable to that of a sophisticated investor, aware of the risks of investing in the stock market, and had the financial wherewithal to sustain any potential trading losses. Respondent Guchone further maintained that before any purchase of stock was made, he had several conversations informing claimant on the stock to be purchased. In addition, respondent Guchone contended that, even if it could be said that she was uninformed prior to a stock purchase transaction, claimant cannot dispute that she impliedly ratified the various transactions because she received confirmations of each purchase and sale, and monthly statements showing the activity in her investment account. Respondent Guchone maintained claimant's payment of margin interest without complaint demonstrates her acceptance of the trading agreement, specifically claimant freely signed two customer agreements accepting payment of margin interest. Respondent Guchone further maintained that, in their many meetings and conversations, they discussed extensively the implications of margin trading. Respondent Guchone contended that, in November 1994, claimant signed a form authorizing the transfer of her account to Essex Capital Markets, Inc., where he then became employed. In addition, respondent Guchone maintained that many transactions made in claimant's personal account yielded substantial profits, for example, in September 1993, claimant saw an increase in the value of her investment to \$113,405 solely as a result of the investment plan recommended and effected by respondent Guchone with claimant's authorization. Furthermore, respondent Guchone contended that claimants attempted to attribute individual trading losses to respondent Guchone of stocks that were not even purchased in claimant's CSG accounts, specifically claimant did not acquire shares in Alliance Multi-Marketing Strategy Trust, Colonial High Yield and Colonial Utilities through respondent Guchone.

Respondents Bear, Stearns & Co. Inc. and Bear Stearns Securities Corp. (the "Bear Stearns Respondents") maintained that they did not owe claimant any substantive duty other than to maintain accurate records of transactions in her accounts. Bear Stearns Respondents further maintained that respondent Guchone was never employed by the them in any capacity. Bear Stearns Respondents contended that their involvement with the account during this period was strictly limited to the ordinary, "back office" functions of a clearing broker, including record keeping, mailing of confirmations and monthly statements and similar ministerial acts. Bear Stearns Respondents further contended that claimant never had any contact with Bear Stearns & Co., Inc., and, in addition, her customer agreement itself

never mentions Bear Stearns & Co., Inc.

RELIEF REQUESTED

Claimant requested compensatory damages against the respondents jointly and severally in the sum of \$95,027.00 plus interest, costs, punitive damages pursuant to the Federal Arbitration Act and attorneys' fees.

Respondents Corporate Securities Group, Inc. and John V. Guchone requested that Claimants claims be dismissed in their entirety.

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.

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. Respondent Corporate Securities Group, Inc. is hereby liable and shall pay to the Claimant the sum of \$46,666.67.
2. Respondent John V. Guchone is hereby liable and shall pay to the Claimant the sum of \$23,333.33.
3. Claimants request for punitive damages is denied.
4. Each party shall bear their own costs, including attorneys' fees.

FORUM FEES

Pursuant to Rule 10332 of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$150.00 non-refundable filing fee previously deposited by the Claimant and have assessed the following forum fees:

1 Pre-hearing conference x \$300.00	=	\$ 300.00
4 hearing sessions x \$500.00	=	\$2,000.00
less hearing session deposit	=	\$ 500.00
Total outstanding	=	\$1,800.00

Respondents Corporate Securities Group, Inc. and John V. Guchone are hereby liable jointly and severally and shall pay to the Claimant \$500.00 reimbursement of the hearing session deposit.

Respondents Corporate Securities Group, Inc. and John V. Guchone are hereby liable jointly and severally and shall pay to the NASD Regulation, Inc. the sum of \$1,800.00 representing the total amount of forum fees.

Fees are payable to the NASD Regulation, Inc.

ARBITRATOR'S SIGNATURE

I, **George R. Freund**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules that this is my decision in the above referenced matter.



George R. Freund
Public Chairperson

I, **George W. Laub**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules that this is my decision in the above referenced matter.

George W. Laub
Public Panelist

I, **Michael F. Brown, Esq.**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules that this is my decision in the above referenced matter.

Michael F. Brown, Esq.
Industry Arbitrator

Date of Decision: July 30, 1997

ARBITRATOR'S SIGNATURE

I, **George R. Freund**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules that this is my decision in the above referenced matter.

George R. Freund
Public Chairperson

I, **George W. Laub**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules that this is my decision in the above referenced matter.



George W. Laub
Public Panelist

I, **Michael F. Brown, Esq.**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules that this is my decision in the above referenced matter.

Michael F. Brown, Esq.
Industry Arbitrator

Date of Decision: July 30, 1997

ARBITRATOR'S SIGNATURE

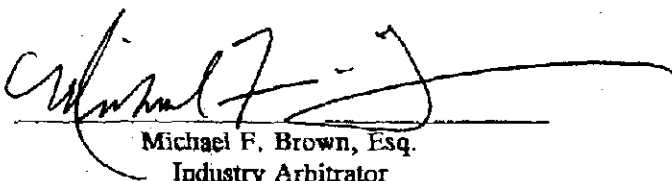
I, **George R. Freund**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules that this is my decision in the above referenced matter.

George R. Freund
Public Chairperson

I, **George W. Laub**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules that this is my decision in the above referenced matter.

George W. Laub
Public Panelist

I, **Michael F. Brown, Esq.**, do hereby affirm pursuant to Article 7507 of the Civil Practice Law & Rules that this is my decision in the above referenced matter.



Michael F. Brown, Esq.
Industry Arbitrator

Date of Decision: July 30, 1997