

AWARD
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Name of Claimants

Peter J. Joseph, Jr.

Peter J. Joseph, Sr.

vs.

98-00392

Name of Respondents

Bear Stearns & Company

Richard J. Eaton

First Cambridge Securities Corporation

REPRESENTATION

Claimants Peter J. Joseph, Jr. ("Joseph Jr.") and Peter J. Joseph, Sr. ("Joseph Sr.") were represented by Peter J. Joseph, Jr., Harleysville, Pennsylvania.

Respondent Bear Stearns & Company ("Bear Stearns") was represented by Gary A. De Vito, Esq., Zarwin, Baum, De Vito, Kaplan & O'Donnell, Philadelphia, Pennsylvania.

Respondent Richard J. Eaton ("Eaton") appeared pro se

Respondent First Cambridge Securities Corporation ("First Cambridge") did not appear.

CASE INFORMATION

The Joint Statement of Claim of Joseph Jr. and Joseph Sr. (collectively "Claimants") was filed February 2, 1998.

Claimants' Joint Statement of Claim-Amended was filed March 13, 1998.

Claimants' Uniform Submission Agreement was signed on January 31, 1998 and amended on April 1, 1998.

The Statement of Answer of Bear Stearns was filed on August 19, 1998.

Bear Stearns's Uniform Submission Agreement was signed on August 25, 1998.

Respondent Eaton's Statement of Answer was filed on April 1, 1998.

Respondent First Cambridge did not file a Statement of Answer.

Respondents Eaton and First Cambridge did not file agreements to arbitrate.

HEARING INFORMATION

Pre-Hearing Conferences: October 27, 1998/one session

Hearing Dates/Sessions: May 18, 1999/two sessions
May 19, 1999/one session

Hearing Location: Doubletree Hotel
Philadelphia, Pennsylvania

CASE SUMMARY

Claimants alleged that on April 28, 1997 First Cambridge made an unauthorized trade in Joseph Jr.'s account #578-06645-1-1, to wit; the purchase of 1,400 shares of WTS IFS International, Inc. at \$11/share for a total of \$15,409. Joseph Jr. stated that after receiving the letter from First Cambridge with request to send a check for \$15,409, he immediately called Eaton, his broker at First Cambridge, and asked him why he received a bill for a stock which he did not authorize him to purchase. Claimants asserted that Eaton guaranteed that the trade would be canceled and removed from Joseph Jr.'s account, but he left First Cambridge before he was able to cancel the trade. Claimants contended that on May 6 and 15, 1997 First Cambridge/Bear Stearns sold the 1,400 shares from Joseph Jr.'s account, thus leaving a cash deficit of \$10,689.67.

Claimants further alleged that on May 1, 1997 First Cambridge made unauthorized trades in Joseph Sr.'s account #578-12314 by selling 530 shares of Lowen Group Capital L.P. at 9.45% CUM monthly income PFD. Consequently, Claimants asserted Joseph Sr. lost dividends of \$104.00 per month. Claimants also alleged that First Cambridge purchased 1,200 shares of WTS IFS International, Inc. without authorization. Claimants contended that Bear Stearns would not allow Eaton to cancel the unauthorized trades.

Respondent Eaton denied wrong-doing and maintained that he was unaware of the trades that occurred in Claimants' accounts. Eaton further maintained that after receiving the message from Joseph Jr., he took the unauthorized trades to Michael Lee Metter (Metter), a principal at First Cambridge and told him that these trades were not placed by himself or by his clients (Claimants) and they should be cancelled. Eaton contended that Metter promised that he would send the transactions to Bear Stearns for the corrections.

Bear Stearns alleged that the Statement of Claim contains no allegations directly concerning it or its limited clearing role. Bear Stearns maintained that Eaton, with whom Claimants dealt while their accounts were serviced by First Cambridge, was employed and supervised by First Cambridge, not by Bear Stearns. Further, Bear Stearns asserted that Claimants received a Customer Agreement, which provides that Bear Stearns shall have no responsibility or liability to Claimants for any acts or omissions of the broker dealer, its officers, employees or agents. Therefore, Bear Stearns stated that they should have no liability for any of the actions of which Claimants now complain. At the hearing, Bear Stearns further asserted that Metter, a principal

of First Cambridge, advised Bear Stearns' managing director that all correction notices must come through him and that Bear Stearns should ignore all such notices previously sent.

RELIEF REQUESTED

Claimants requested removal of the debit of \$10,689.67 from Joseph Jr.'s record; the value of the 1,200 shares of WTS IFS International, Inc. at \$1 per share (\$1,200) and the value of Lowen Group Capital when sold (\$14,409.37) and monthly dividends of \$104.34 for 25 months (\$2,608.50).

Respondents Bear Stearns and Eaton requested that the Statement of Claim be dismissed and the costs of this proceeding assessed against Claimants.

Respondent First Cambridge did not request relief.

OTHER ISSUES CONSIDERED & DECIDED

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

Respondents First Cambridge and Eaton did not file with the NASD Regulation, Inc. Office of Dispute Resolution ("NASD") properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the Code of Arbitration Procedure ("Code") and are bound by the determination of the arbitrators on all issues submitted.

The Amended Statement of Claim was forwarded by mail on March 13, 1998 to First Cambridge after Claimants added them as a Respondent, as certified by Claimants. In addition, the notice of the Initial Prehearing Conference was sent by the NASD to counsel for First Cambridge via facsimile transmission and certified mail and was signed for on September 28, 1998. The panel determined pursuant to Rule 10318 of the Code, the hearing would proceed.

The panel considered Bear Stearns's motion to dismiss all claims against it. Claimants and Eaton opposed the motion. The Panel, after full consideration of Bear Stearns's motion, denied the motion to dismiss the claims against it.

The panel also considered Claimants' motion to permit witness Metter to testify telephonically. Eaton did not oppose the application but Bear Stearns opposed the motion for the reasons that counsel for Bear Stearns would be unable to examine Metter on a number of important documents, and that the Panel would be unable to fully evaluate Metter's credibility on a critical, disputed factual issue. The panel denied the Claimants' motion but issued an order compelling Metter's appearance at 9:30 a.m. the following day.

The panel considered Eaton's motion to dismiss all claims against him, and the lack of objection from the remaining parties. The arbitrators granted the motion.

At the second day of hearings the panel again considered Claimants' motion to permit witness Metter to testify telephonically, with Bear Stearns renewed opposition to the motion and cross motion to proceed to closing arguments. The panel, after full consideration of these motions, again denied Claimants' motion and granted the Bear Stearns' motion to proceed to closing arguments.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrators decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondent First Cambridge shall remove the debit of \$10,689.67 from the record of Peter J. Joseph, Jr.'s account #578-06645-1-1;
2. That Respondent First Cambridge shall rescind the transaction and remove the 1,200 shares of WTS IFS International Inc. from the account #578-12314 of Peter J. Joseph, Sr.;
3. That Respondent First Cambridge is liable to and shall pay to Claimant Peter J. Joseph, Sr. \$2,608.50 (25 months x \$104.34 per month dividend);
4. That Respondent First Cambridge shall reinstate the 530 shares of Lowen Group Capital to the account of Claimant Peter J. Joseph, Sr.;
5. That Respondent First Cambridge is liable to and shall reimburse Claimants \$100.00 for the filing fee paid to the NASD;
6. That each party shall bear their own costs and expenses, with the exception of the filing fee First Cambridge is to reimburse to Claimants and the forum fees as specified below;
7. That any and all relief not specifically addressed herein, with the exception of forum fees as specified below, is denied.

OTHER COSTS

Pursuant to Rule 10333 of the Code, Bear Stearns and First Cambridge were assessed member surcharges of \$600 each, prehearing processing fees of \$600 each and hearing processing fees of \$1000.00 each. Bear Stearns has paid all of the fees assessed under Rule 10333. However, the fees assessed against First Cambridge pursuant to Rule 10333 have not been paid.

FORUM FEES

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

1 prehearing x \$400 = \$ 400.00
3 hearing sessions x \$400 = \$1,200.00
Total Forum Fees = \$1,600.00

The forum fees are assessed to Claimants, jointly and severally, in the amount of \$533.33, and to Bear Stearns in the amount of \$533.33 and to First Cambridge in the amount of \$533.34.

Claimants shall receive credit for the hearing session deposit in the amount of \$420.00, leaving a net forum fee assessment due from Claimants of \$113.33.

Bear Stearns shall receive credit for \$200.00 previously submitted to the NASD, leaving a net forum fees assessment due from Bear Stearns of \$333.33.

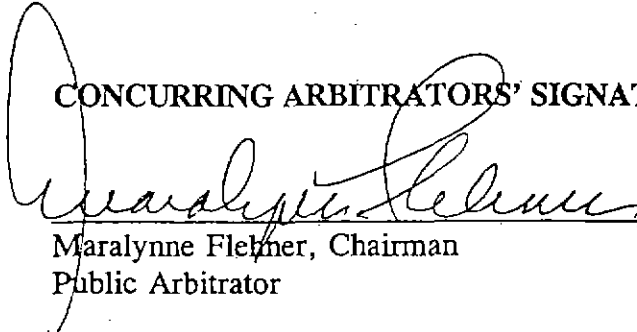
First Cambridge has a forum fees assessment due of \$533.34.

Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution.

DATE

6/15/99

CONCURRING ARBITRATORS' SIGNATURES


Maralynne Flehner, Chairman
Public Arbitrator

Victoria E. Johnson
Public Arbitrator

David Austin Mallach
Industry Arbitrator

Date Decision Served by NASD:

June 22, 1999

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CONCURRING ARBITRATORS' SIGNATURES

Maralynne Flehner, Chairman
Public Arbitrator

Victoria E. Johnson
Public Arbitrator

6/20/99


David Austin Mallach
Industry Arbitrator

Date Decision Served by NASD: _____

June 22, 1999

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DATE

CONCURRING ARBITRATORS' SIGNATURES

6/17/99

Maralynne Flehner, Chairman
Public Arbitrator

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Public Arbitrator

David Austin Mallach
Industry Arbitrator

Date Decision Served by NASD: _____

June 22, 1999