
Stipulated Award
NASD

In the Matter of the Arbitration Between:

Name of the Claimant
James R. Swaggard

Case Number:
99-00699

Names of the Respondents
Bears Stearns Securities Corp.,
Michael Anthony Pollaccia, and Joseph Sciarra

Hearing Site:
Boca Raton, FL

Name of the Third-Party Respondent
David Larue

REPRESENTATION OF PARTIES

For James R. Swaggard, hereinafter referred to as "Claimant": Dennis M. Boyce, Esq., North Palm Beach, FL.

For Respondent Bears Stearns Securities Corp. ("Bears Stearns"): Arlene Semaya, Managing Director, Legal Department, Bears Stearns Securities Corp., Whippany, NJ.

For Respondent Joseph Sciarra ("Sciarra"): Jeffery S. Grubman, Esq., Herman Grubman & Moore, Miami, FL.

For Respondent Michael Anthony Pollaccia ("Pollaccia"): Gerald F. Richman, Esq., Richman, Greer, Weil, Brumbaugh, Mirabito & Christensen, P.A., West Palm Beach, FL.

Third-Party Respondent David Larue ("Larue") appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: February 16, 1999.

Claimant signed the Uniform Submission Agreement: February 9, 1999.

Respondent Pollaccia signed the Uniform Submission Agreement: April 19, 1999.

Statement of Answer, Affirmative Defenses, Cross-Claim and Third-Party Claim filed by Respondent Pollaccia on or about: April 20, 1999.

Statement of Answer, Affirmative Defenses, and Motion to Dismiss filed by Respondent Sciarra on or about: May 4, 1999.

Answer to Respondent Sciarra's Affirmative Defenses filed by Claimant on or about: May 10, 1999.

Motion to Dismiss Cross-Claim, Motion to Strike, Answer, Affirmative Defenses, and Counter-Claim filed by Third-Party Respondent Larue on or about: June 8, 1999.

Respondent Bears Stearns did not file a Statement of Answer or an executed Uniform Submission Agreement.

Respondent Sciarra did not file an executed Uniform Submission Agreement.

Third-Party Respondent Larue did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; negligence; common law fraud; and violations under the Florida Securities and Investor Protection Act and the Securities Exchange Act of 1934. The causes of action relate to Respondents' unsuitable trading of various stocks, including, but not limited to, PMT Services and IOMEGA Corp., in Claimant's IRA account.

Unless specifically admitted in his Answer, Respondent Sciarra denied the allegations made in the Statement of Claim, asserted various defenses, and filed a Motion to Dismiss the Statement of Claim.

Unless specifically admitted in his Answer, Respondent Pollaccia denied the allegations made in the Statement of Claim, asserted various defenses, and filed a third-party claim against Third-Party Respondent Larue, which alleged that Third-Party Respondent Larue is liable to Respondent Pollaccia for that portion of damages that can be attributed to advice or trades made on or after June 1, 1997 as at such time, Claimant's account was handled by Third-Party Respondent Larue.

Unless specifically admitted in his Answer, Third-Party Respondent Larue denied the allegations made in the third-party claim, asserted various defenses, and filed a Motion to Dismiss and a counter-claim, which asserted that there is not a partnership or any other agreement between Respondent Pollaccia and Third-Party Respondent Larue which holds Third-Party Respondent liable to Respondent Pollaccia in this matter, and that Third-Party Respondent Larue suffers from, and continues to suffer damages from, Respondent Pollaccia's malicious and frivolous claim.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$500,000.00, punitive damages, costs, attorney's fees pursuant to section 517.211, Fla. Stat., and any other relief deemed just and proper.

Respondent Sciarra requested that the Statement of Claim be dismissed, and costs be assessed to Claimant.

Respondent Pollaccia requested a judgment against Third-Party Respondent Larue for proportionate damages that are adjudged against Respondent Pollaccia in favor of Claimant.

Third-party Respondent Larue requested punitive damages in the amount of \$15,000.00 from Respondent Pollaccia, and that the third-party claim be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents Bear Stearns, Sciarra, and Third-Party Respondent Larue did not file with NASD properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code"), and are bound by the determination of the undersigned arbitrators (the "Panel") on all issues submitted.

On or about July 6, 1999, Claimant filed with NASD a Notice of Voluntary Dismissal Without Prejudice that

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dismissed Respondent Bears Stearns from this matter.

On or about December 6, 1999, the Panel issued an order that granted the dismissal of Respondent Pollaccia's third-party claim against Third-Party Respondent Larue and Third-Party Respondent Larue's counter-claim against Respondent Pollaccia.

On or about March 30, 2000, Claimant, Respondents Sciarra and Pollaccia, and Joseph Charles & Associates, Inc filed with NASD a Settlement Agreement that dismissed all claims, which the parties have or may have based upon any facts or circumstances that arose or existed on or prior to January 26, 2000, against said Respondents with prejudice.

On or about September 20, 2000, Respondent Pollaccia filed with NASD a Motion for Expungement, which requested that all references to this matter be expunged from his registration records maintained by the NASD Central Registration Depository ("CRD"). On or about March 20, 2000, the Panel issued an order that granted Respondent Pollaccia's Motion for Expungement.

On or about November 11, 2000, Joseph Charles & Associates, Inc. filed for Chapter 11 Bankruptcy in the United States Bankruptcy Court, Southern District of Florida. Pursuant to the automatic stay under 11 U.S.C. Section 362(a), the Panel made no determination with respect to the claims asserted against Joseph Charles & Associates, Inc.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings and the Motion for Expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel dismisses, with prejudice, Respondent Pollaccia's third-party claim against Third-Party Respondent Larue and Third-Party Respondent Larue's counter-claim against Respondent Pollaccia.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Pollaccia's registration records maintained by the NASD CRD, with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Pollaccia must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 200.00
Cross-Claim and Third-Party Claim filing fee	= \$ 500.00
Counter-Claim filing fee	= \$ 500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Respondent Bears Stearns is assessed:

Member surcharge	= \$ 1,500.00
Pre-hearing process fee	= \$ 600.00

Adjournment Fees

Adjournment fees were not assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, that lasts four (4) hours or less.

Two (2) Pre-hearing sessions with the Panel @ \$ 750.00	= \$ 1,500.00
Pre-hearing conferences: September 16, 1999	1 session
December 14, 1999	1 session

Total Forum Fees	= \$ 1,500.00
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1. The Panel has assessed \$ 750.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 750.00 of the forum fees jointly and severally to Respondents Sciarra and Pollaccia.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Administrative costs were not incurred in this matter.

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Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 200.00
Forum Fees	= \$ 750.00
Total Fees	= \$ 950.00
Less payments	= \$ 950.00
Balance Due NASD	= \$ 0.00

2. Respondent Bears Stearns is solely liable for:

Member Fees	= \$ 2,100.00
Total Fees	= \$ 2,100.00
Less payments	= \$ 2,100.00
Balance Due NASD	= \$ 0.00

3. Respondent Pollaccia is solely liable for:

Cross-Claim and Third-Party Claim Filing Fee	= \$ 500.00
Total Fees	= \$ 500.00
Less payments	= \$ 500.00
Balance Due NASD	= \$ 0.00

4. Third-Party Respondent Larue is solely liable for:

Counter-Claim Filing Fee	= \$ 500.00
Total Fees	= \$ 500.00
Less payments	= \$ 0.00
Balance Due NASD	= \$ 500.00

5. Respondents Sciarra and Pollaccia are jointly and severally liable for:

Forum Fees	= \$ 750.00
Total Fees	= \$ 750.00
Less payments	= \$ 750.00
Balance Due NASD	= \$ 0.00

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

ARBITRATION PANEL

Gordon Keith Grandy	-	Public, Presiding Chairperson
Marvin L. Flack	-	Public Arbitrator
Peter Brown	-	Non-Public Arbitrator

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Concurring Arbitrators' Signatures

/s/

08/20/02

Gordon Keith Grandy
Public Arbitrator, Presiding Chairperson

Signature Date

Marvin L. Flack
Public Arbitrator

Signature Date

/s/

08/18/02

Peter Brown
Non-Public Arbitrator

Signature Date

09/04/02


Date of Service (For NASD office use only)

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Concurring Arbitrators' Signatures



Gordon Keith Grandy
Public Arbitrator, Presiding Chairperson

August 20, 2002
Signature Date

Marvin L. Flack
Public Arbitrator

Signature Date

Peter Brown
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

AUG. 12. 2002 11:48AM

NO. 2126 P. 7/7

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Concurring Arbitrators' Signatures

Gordon Keith Grandy

Public Arbitrator, Presiding Chairperson

Signature Date

Marvin L. Flack

Public Arbitrator

Signature Date



Peter Brown

Non-Public Arbitrator

8/16/02
Signature Date

Date of Service (For NASD office use only)