

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Antonio Donato and Marilyn Donato, (Claimants) vs. Bear Stearns & Co., Inc.
and Robert D. Zielke, (Respondents).

Case Number:
99-00927

Hearing Site:
Chicago, Illinois

REPRESENTATION OF PARTIES

Claimants, Antonio Donato ("A. Donato") and Marilyn Donato ("M. Donato"), hereinafter collectively referred to as "Claimants": Steven J. Rotunno, Esq., Kubasiak, Cremieux, Fylstra, Reizen, & Rotunno, Chicago, Illinois.

Respondents, Bear Stearns & Company, Respondent ("Bear Stearns") and Robert D. Zielke ("Zielke"), hereinafter collectively referred to as "Respondents": Nicholas Iavarone, Esq., Bellows and Bellows, P.C., Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: March 1, 1999

Claimants, signed the Uniform Submission Agreement: February 18, 1999

Statement of Answer filed by Respondents, on or about: May 7, 1999

Respondent, Bear Stearns, signed the Uniform Submission Agreement:
April 9, 1999

Respondent, Zielke, signed the Uniform Submission Agreement: May 3, 1999

CASE SUMMARY

Claimants asserted the following causes of action:

1. Although the claimants did not have a signed Option Agreement with Bear Stearns, Mr. Zielke, individually and as an employee of Bear Stearns, and acting as the Claimants registered representative, permitted the Claimants to purchase options, specifically calls in Tellabs, on margin at a total purchase price of \$53,916.00. Furthermore, in order to protect his employment with Bear Stearns, Mr. Zielke convinced the Claimants to sign an Option Agreement, pay for the purchase of the calls, and retain the economic risk of holding the calls. Thereafter, the Tellabs calls expired worthless. Accordingly, Bear Stearns made

margin calls against the Claimants and the Claimants were forced to sell out certain securities, thereby suffering additional losses.

Respondents Bear Stearns and Zielke denied the allegations made in the Statement of Claim and asserted the following defenses:

1. The Statement of Claim failed to state a cause of action upon which relief may be granted.
2. The Claimants were precluded from any recovery against Bear Stearns and/or Zielke in this proceeding since Claimants failed to use the requisite diligence in monitoring, managing and handling their own accounts.
3. Any loss sustained by the Claimants was the direct and proximate result of Claimants' own conduct or negligence and not any act or omission of Bear Stearns or Zielke.
4. The Claimants were precluded from any recovery against Bear Stearns and/or Zielke in this proceeding since any losses allegedly sustained by the Claimant were the direct result of market conditions and/or fluctuation beyond the control or prediction of Bear Stearns and/or Zielke, and not any act or omission on the part of Bear Stearns and/or Zielke.
5. The Claimants were precluded from any recovery against Bear Stearns and/or Zielke in this proceeding since they failed to make reasonable and ordinary efforts to mitigate their losses.
6. The Claimants were precluded from any recovery against Bear Stearns and/or Zielke in this proceeding since at all times relevant hereto Bear Stearns and Zielke acted in good faith and in compliance with all applicable securities laws, regulations, and industry standards of conduct in the handling of the Claimants' account.
7. The Claimants were precluded from any recovery against Bear Stearns in this proceeding since at all times relevant hereto Bear Stearns maintained an adequate and reasonable system of supervision and control over its employee, including Zielke.
8. The Claimants were precluded from recovery against Bear Stearns and/or Zielke in this proceeding by the doctrines of waiver, ratification, and estoppel.
9. The Claimants were precluded from any recovery against Bear Stearns and/or Zielke in this proceeding since they were aware of and fully understood the risks associated with each of the investments purchased in their account and knowingly, willingly, and voluntarily assumed those risks.

RELIEF REQUESTED

Claimants Donato and Donato requested:

Compensatory Damages	\$100,000.00
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary/Non-Monetary Relief if any:	Further relief as the

Arbitrators deem appropriate.

Respondents Bear Stearns and Zielke requested:

Compensatory Damages	\$0
Punitive Damages	\$0
Interest	\$0
Attorneys' Fees	Unspecified
Other Costs	Unspecified

AWARD

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

Claimants request for damages is denied and dismissed in its entirety.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$150.00
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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 firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$1,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,500.00
<u>Total</u>	<u>= \$3,100.00</u>

Adjournment Fees

Adjournments requested during these proceedings:

May 03, 2000- May 04, 2000 adjournment by Claimants	= \$ 500.00
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Forum Fees and Assessments

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

One (1) Pre-hearing sessions with Panel x \$500.00 = \$ 500.00
Pre-hearing conference: January 31, 2000 1 session

Two (2) Hearing sessions x \$500.00 = \$1,000.00
Hearing Dates: August 24, 2000 2 sessions

Total Forum Fees = \$1,500.00

1. The Panel has assessed \$1,500.00 of the forum fees to Claimants.

Fee Summary

1. Claimants shall be and hereby are liable for:

Initial Filing Fee	= \$ 150.00
Adjournment Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$1,500.00</u>
<u>Total Fees</u>	<u>= \$2,150.00</u>
<u>Less payments</u>	<u>= \$ 950.00</u>
Balance Due NASD Regulation, Inc.	= \$1,200.00

2. Respondent Bear Stearns shall be and hereby is solely liable for:

<u>Member Fees</u>	<u>= \$3,100.00</u>
<u>Total Fees</u>	<u>= \$3,100.00</u>
<u>Less payments</u>	<u>= \$1,600.00</u>
Balance Due NASD Regulation, Inc.	= \$1,500.00

All balances are due to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

/s/ John J. Enright, Esq.

September 27, 2000

John J. Enright, Esq.

Signature Date

Public Arbitrator, Presiding Chair

/s/ Joseph D. Vu

October 02, 2000

Joseph D. Vu

Signature Date

Public Arbitrator

/s/ Jeffrey S. Fannon

October 10, 2000

Jeffrey S. Fannon

Signature Date

Industry Arbitrator

October 11, 2000

Date of Service (For NASD office use only)

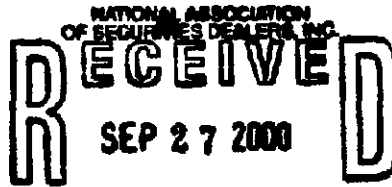
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John J. Enright, Esq.
Public Arbitrator, Presiding Chair

Sept 27, 2000
Signature Date

Joseph D. Vu
Public Arbitrator



Signature Date

Jeffrey S. Fannon
Industry Arbitrator

Signature Date

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Concurring Arbitrators' Signatures

John J. Enright, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Joseph D. Vu
Public Arbitrator

Joseph Vu 10-2-2000

Signature Date

Jeffrey S. Fannon
Industry Arbitrator

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NASD Dispute Resolution, Inc.
Arbitration No. 99-00927
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John J. Enright, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Joseph D. Vu
Public Arbitrator

Signature Date



Jeffrey S. Fannon
Industry Arbitrator

10-10-00
Signature Date

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