

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

John S. Godes, Claimant v. Bear Stearns & Company and Bruce Alan Wisnicki, Respondents

Case Number: 99-01982

Hearing Site: Los Angeles, California

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**REPRESENTATION OF PARTIES**

For Claimant:

John S. Godes  
In Pro Per  
Orange, California

For Respondents Bear Stearns & Company  
and Bruce Alan Wisnicki:

Terry Ross, Esq.  
Kessal, Young & Logan  
Long Beach, California

**CASE INFORMATION**

Statement of Claim filed: April 28, 1999

Claimant's Uniform Submission Agreement signed: April 27, 1999

Joint Statement of Answer filed by Respondents Bear Stearns & Company and Bruce Alan Wisnicki: August 31, 1999

Amended Joint Statement of Answer filed by Respondents Bear Stearns & Company and Bruce Alan Wisnicki: September 2, 1999

Respondent Bear Stearns & Company's Uniform Submission Agreement signed: September 9, 1999

Respondent Bruce Alan Wisnicki's Uniform Submission Agreement signed: September 22, 1999

**CASE SUMMARY**

Claimant alleged fraud, negligence, negligent misrepresentation, breach of contract, breach of fiduciary duty, unsuitability, and failure to supervise. Allegations arose out of transactions in mutual funds, bond funds, individual bonds, a Real Estate Investment Trust (REIT), and other unnamed securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

### **RELIEF REQUESTED**

Claimant requested \$150,000.00 in compensatory damages, \$500,000.00 in punitive damages pursuant to California Code Section 3294, and reimbursement of arbitration costs and attorney's fees.

Respondents requested dismissal of Claimant's Statement of Claim in its entirety, expungement of their regulatory records, and reimbursement of arbitration costs and attorney's fees.

### **OTHER ISSUES CONSIDERED AND 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.

### **AWARD**

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

- 1) All claims are denied in their entirety.
- 2) Claimant's request for punitive damages is denied.
- 3) Each party shall bear its own costs, including attorney's fees.
- 4) All other relief not expressly granted is denied.
- 5) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Bear Stearns & Company's registration records maintained by the NASD Central Registration Depository (CRD), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Bear Stearns & Company must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 6) The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Bruce Alan Wisnicki's registration records maintained by the NASD Central Registration Depository (CRD), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Bruce Alan Wisnicki 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 Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Bear Stearns & Company is a party and the following fees are assessed:

Member Surcharge	= \$ 2,000.00
Pre-Hearing Process Fee	= \$ 600.00
Hearing Process Fee	= \$ 3,500.00
<b>Total Member Fees</b>	<b>= \$ 6,100.00</b>

#### **Adjournment Fees**

The following adjournment fees are assessed:

Hearing Dates: November 20-22, 2000	
Adjournment requested by Claimant John S. Godes	= \$ 1,200.00

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel. The following fees are assessed:

1 Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: June 13, 2000 1 session	
6 Hearing sessions @ \$1,200.00/session	= \$ 7,200.00
Hearings: May 8, 2001 2 sessions	
May 9, 2001 2 sessions	
May 10, 2001 2 sessions	
<b>Total Forum Fees</b>	<b>= \$ 8,400.00</b>

1. The Panel assessed \$ 4,200.00 of the forum fees to Claimant John S. Godes.

2. The Panel assessed \$ 4,200.00 of the forum fees jointly and severally to Respondents Bear Stearns & Company and Bruce Alan Wisnicki.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and other requests.

Respondent Bear Stearns & Company  
requested 29 photocopies @ \$0.50 each: = \$ 14.50

**Fee Summary**

1. Claimant John S. Godes is charged with the following fees and costs:

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 1,200.00
<u>Forum Fees</u>	<u>= \$ 4,200.00</u>
Total Fees	= \$ 5775.00
<u>Less Payments</u>	<u>=(2,775.00)</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 3,000.00</b>

2. Respondent Bear Stearns & Company is charged with the following fees and costs:

Member Fees	= \$ 6,100.00
<u>Administrative Costs</u>	<u>= \$ 14.50</u>
Total Fees	= \$ 6,114.50
<u>Less Payments</u>	<u>=(4,600.00)</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 1,514.50</b>

3. Respondents Bear Stearns & Company and Bruce Alan Wisnicki are charged jointly and severally with the following fees and costs:

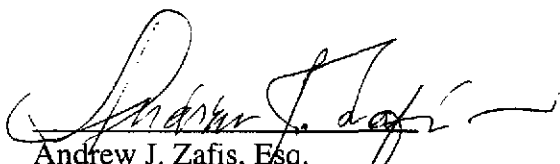
<u>Forum Fees</u>	<u>= \$ 4200.00</u>
<b>Balance Due NASD Dispute Resolution, Inc.</b>	<b>= \$ 4200.00</b>

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


**ARBITRATION PANEL**

Andrew J. Zafis, Esq.	-	Public, Presiding Chair
Robert B. Moran	-	Public Arbitrator
Richard C. Ramos	-	Non-Public Arbitrator


**Concurring Arbitrators' Signature(s)**

  
Andrew J. Zafis, Esq.  
Chair, Public Arbitrator

May 15, 2001  
Signature Date

  
Robert B. Moran  
Public Arbitrator

5-15-01  
Signature Date

  
Richard C. Ramos  
Non-Public Arbitrator

May 15, 2001  
Signature Date

5/15/01  
Date of Service