

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between:

James S. White, Vince H. Lombardi, Jill F. Lombardi, and Magic City Beverage Co.,
(Claimants) vs. Bear Stearns Co., Inc., (Respondent)

Case Number: 99-02960

Hearing Site: Dallas, TX

REPRESENTATION OF PARTIES

Claimants, James S. White ("White"), Vince H. Lombardi and Jill F. Lombardi (collectively, "Lombardi") and Magic City Beverage Co. ("Magic City"), hereinafter collectively referred to as "Claimants": Dennis H. Taylor, Esq., Taylor & Associates, Longview, TX.

Respondent, Bear Stearns & Co, Inc., hereinafter referred to as "Respondent": David Clouston, Esq., Arter & Hadden, Dallas, TX.

CASE INFORMATION

Statement of Claim filed on or about: May 11, 1998

Amended Statement of Claim filed on or about: October 13, 1998

Claimant White signed the Uniform Submission Agreement: May 4, 1998

Claimant Vince H. Lombardi did not sign a Uniform Submission Agreement.

Claimant Jill F. Lombardi did not sign a Uniform Submission Agreement.

Claimant Magic City did not sign a Uniform Submission Agreement.

Statement of Answer filed by Respondent on or about: June 29, 1998

Amended Answer to Amended Statement of Claim filed by Respondent on or about:
March 1, 1999

Respondent signed the Uniform Submission Agreement: June 25, 1998

CASE SUMMARY

Claimants asserted the following causes of action: material misrepresentations and omissions; unsuitability; violations of the Texas Deceptive Trade Practices Act ("DTPA"); negligence; breach of contract; failure to supervise; and, common law fraud.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: Claimants failed to state a claim upon which relief can be granted; the claims are barred by the applicable statutes of limitations; Claimants', or some third party other than Respondent, conduct or negligence

was the direct or proximate cause of any losses sustained by them; the losses were as a result of market conditions; they failed to mitigate their losses; Respondent acted in good faith; the claims are barred by the doctrines of waiver and ratification; Claimants assumed the risks of their investment; Respondent adequately supervised its employees; and, the professional opinion/advice exception to the DTPA prohibits Claimants from seeking recovery under this statute.

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	just under \$500,000.00
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any: treble damages based upon a claim that Respondent knowingly committed conduct in violation of the DTPA.	

Respondent requested:

Other Costs	unspecified
Other Monetary/Non-Monetary Relief if any: that the Claimants' claims be dismissed in their entirety.	

OTHER ISSUES CONSIDERED AND DECIDED

While this case was being administrated by the American Stock Exchange Arbitration Department, and subsequent to filing a Motion to Join Claimants, Claimant White, along with Claimants Lombardi and Magic City submitted an Amended Statement of Claim in which they argued that the Panel should permit joinder of multiple parties. The Panel granted the Motion to join the additional Claimants was granted by the Chairman who presided over the case at that time.

Respondent's Motion to Sever the Claimants was denied by the Panel.

Claimant White's Motion for Sanctions was granted by the Panel.

The Lombardi Claimants were severed from the proceeding due to their unwillingness or unavailability to attend the hearing in person. This severing does not constitute a dismissal and they would be free to pursue the matter later.

The panel has determined to tax the disputed copying costs against the Respondents.

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.

AWARD

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

1. Actual damages of \$25,000.00 are to be awarded to Claimant White (only).
2. Claimant White's Motion for Sanctions is granted resulting in an additional \$5,000.00 award to Claimant White (only).
3. Respondents shall pay the copying costs which were disputed in post-hearing documents.
4. All other claims are denied in their entirety.
5. All other requests for relief are hereby denied.

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 = \$ 200.00

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 session with a single arbitrator x \$300.00	= \$ 300.00
Pre-hearing conference: October 20, 1999	1 session
Ten (10) Hearing sessions x \$750.00	= \$7,500.00
Hearing Dates: November 8, 1999	1 session
November 9, 1999	3 sessions
November 10, 1999	2 sessions

	November 11, 1999	2 sessions	
	November 12, 1999	2 sessions	
Total Forum Fees			= \$7,800.00

1. The Panel has assessed \$3,900.00 of the forum fees against Respondent.
2. The Panel has assessed \$3,900.00 of the forum fees jointly and severally against Claimants White, Lombardi and, Magic City.

Fee Summary

1. Claimants White, Lombardi, and Magic City be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 200.00
Forum Fees	= \$3,900.00
Total Fees	= \$4,100.00
Less payments	= \$ 950.00
Balance Due NASD Regulation, Inc.	= \$3,150.00

2. Respondent be and hereby is solely liable for:

Forum Fees	= \$3,900.00
Total Fees	= \$3,900.00
Less payments	= \$ 0.00
Balance Due NASD Regulation, Inc.	= \$3,900.00

All balances are due and payable to NASD Regulation, Inc.

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Concurring Arbitrators' Signatures

Russell E. Rains, Esq.
Public Arbitrator Presiding Chair

Signature Date

Pristilla Kim Park, J.D.
Public Arbitrator

Signature Date

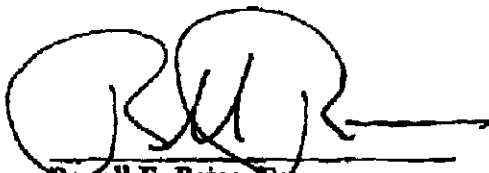
James R. Augustine
Industry Arbitrator

Signature Date

February 25, 2000
Date of Service (For NASD office use only)

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Concurring Arbitrators' Signatures



Russell E. Rains, Esq.
Public Arbitrator, Presiding Chair

1-11-00
Signature Date

Priscilla Kim Park, J.D.
Public Arbitrator

Signature Date

James R. Augustine
Industry Arbitrator

Signature Date

February 25, 2000
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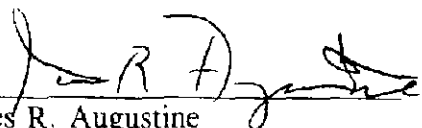
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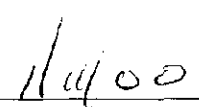
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