

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Stuart Palmer, (Claimant) vs. Kensington Wells, Inc. Et al. (Respondents).

Case Number: 99-05224

Hearing Site: Denver, Colorado

REPRESENTATION OF PARTIES

Claimant, Stuart M. Palmer ("Claimant"): Richard Nervig, Esq.: Nervig and Vondran, Denver, Co.

Respondent, Kensington Wells, Inc. ("Respondent Kensington Wells"): was unrepresented and in bankruptcy.

Respondent, Bear Stearns Securities Corporation ("Respondent Bear Stearns"): Peter Boutin, Esq., Keesal, Young & Logan, located in San Francisco, CA.

Respondent, Daniel Otoy ("Respondent Otoy"): Michael Gilmore, Esq.: Wexler & Burkhart, Michael Field, New York.

Respondent Erik Montalvo ("Respondent Montalvo"): represented himself.

CASE INFORMATION

Statement of Claim filed on or about: November 29, 1999.

Claimant Stuart Palmer signed the Uniform Submission Agreement: June 16, 2000.

Statement of Answer filed by Respondent, Bear Stearns Securities Corporation, on or about: January 26, 2000.

The NASD has no record of Respondent, Bear Stearns Securities Corporation's signed Uniform Submission Agreement.

The NASD has no record of Respondent Kensington Wells' Statement of Answer or signed Uniform Submission Agreement.

Statement of Answer filed by Respondent, Daniel O. Otoyá, on or about:
February 28, 2000.

The NASD has no record of Respondent, Daniel O. Otoyá's signed Uniform Submission Agreement.

The NASD has no record of Respondent, Erik Montalvo's Statement of Answer or signed Uniform Submission Agreement.

CASE SUMMARY

Claimant Stuart Palmer asserted the following causes of action: breach of fiduciary duty, negligence, failure to supervise, unauthorized trading and violations of state and federal security laws. The causes of action relate to the purchases and sale of securities including Marvel Comics, Xybernaut Corporation, and Universal Automotive, in Claimant's account.

Unless specifically admitted in its Answer, Respondent Bear Stearns Securities Corporation denied the allegations made in the Statement of Claim and asserted defenses including the following: Claimant fails to state a claim upon which relief can be granted and the claim should be dismissed; Claimant assumed the risks associated with his investments; and the damages for which Claimant seeks to hold it liable were proximately caused by Claimant's own failure to mitigate damages.

Unless specifically admitted in its Answer, Respondent Daniel Otoyá denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant failed to state a claim against Respondent Otoyá for which relief may be granted; the cause of action set forth in the claim is barred by the applicable statute of limitation; and Claimant with full knowledge of all material facts concerning the relevant securities account waived the alleged claims set forth in the claim and the alleged damages resulting there from by failing to take timely and appropriate action prior to incurring such damages.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$253,829.50
Punitive Damages	unspecified
Interest	unspecified
Attorneys' Fees	unspecified
Other Costs	unspecified

Other Monetary/Non-Monetary Relief:	unspecified
Respondent Bear Stearns requested:	
Other Monetary/Non-Monetary Relief:	unspecified
Respondent Respondent Otoyá requested:	
Other Monetary/Non-Monetary Relief:	unspecified

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitration Panel would have made a finding against Kensington Wells but for the Stay of Bankruptcy in effect at the time of the hearing. Due to the stay, the panel made no rulings as to Respondent Kensington Wells.

On July 28, 2000 Claimant Stuart M. Palmer advised the NASD that all claims against Respondent Daniel Otoyá had been settled. Therefore, the panel made no further rulings as to Respondent Otoyá.

At the hearing, Claimant Stuart M. Palmer advised the NASD that all claims against Respondent Erik Montalvo had been settled. Therefore, the panel made no further rulings as to Respondent Erik Montalvo.

During the arbitration hearing several motions were asserted. After arguments from both counsel and due consideration the Panel denied Claimant's oral Motion for default judgment against Kensington Wells, granted Claimant's Motion to Preclude Answer against Kensington Wells and allowed Bears Stearns to submit and argue a defense on its own behalf which may have included defenses of Kensington Wells.

After all evidence was submitted, both parties agreed to make closing arguments telephonically on January 30, 2001.

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned Arbitration Panel determined that Respondent Montalvo had been properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Montalvo did not file with the NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Arbitration Panel on all issues submitted.

Respondent Bear Stearns Securities Corporation did not file with the NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Arbitration Panel on all issues submitted

The parties present at the hearing 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 post hearing submissions, the Arbitration Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That any and all requests for relief by Claimant are hereby dismissed and denied in their entirety;
2. That any and all relief not specifically addressed herein, including punitive damages, is 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	= \$300
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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 firms were named as Respondents.

Member surcharge	= \$1500
Pre-hearing process fee	= \$600
Hearing process fee	= \$2500

Forum Fees and Assessments

The Arbitration 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 \$450 = \$450
Pre-hearing conference: November 20, 2000 1 session

Three (3) Pre-hearing sessions with Panel x \$1125 = \$3,375
Pre-hearing conferences: July 6, 2000 1 session
July 27, 2000 1 session
November 22, 2000 1 session

Nine (9) Hearing sessions x \$1125 = \$10,125
Hearing Dates: December 13, 2000 2 sessions
December 14, 2000 2 sessions
December 15, 2000 3 sessions
January 30, 2001 2 sessions

Total Forum Fees = \$13,950

1. The Arbitration Panel has assessed \$12,825 of the forum fees to Respondent Bear Stearns Securities Corporation.
2. The Arbitration Panel has assessed \$1,125 of the forum fees to Claimant Stuart Palmer.

Fee Summary

1. Claimant, Stuart Palmer, be and hereby is solely liable for:

Initial Filing Fee	= \$300
Member Fees	= \$1,125
<u>Administrative Costs</u>	= \$0
Total Fees	= \$1,425
<u>Less payments</u>	= \$1,425
Zero Balance	= \$0

2. Respondent, Bear Stearns Securities Corporation be and hereby is solely liable for:

Member Fees	= \$4,600
Forum Fees	= \$12,825
<u>Administrative Costs</u>	= \$0
Total Fees	= \$17,425
<u>Less payments</u>	= \$4,600
Balance Due NASD Dispute Resolution, Inc.	= \$12,825

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signature

/s/ L.S. Lehrburger

April 9, 2001

Lillian S. Lehrburger
Public Arbitrator, Presiding Chair

Signature Date

/s/ Berwyn Davies

April 6, 2001

Berwyn Davies
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

/s/ Leon C. Tupy

April 6, 2001

Leon C. Tupy
Industry Arbitrator

Signature Date

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Concurring Arbitrators' Signature

Lillian S. Lehrburger
Public Arbitrator, Presiding Chair

Signature Date

Benwyn Davies
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Leon C. Tupy
Industry Arbitrator

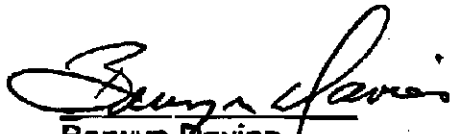
Signature Date

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Lillian E. Lehrburger
Public Arbitrator, Presiding Chair

Signature Date



Berwyn Davies
Public Arbitrator



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Dissenting Arbitrator's Signature

Leon C. Tupy
Industry Arbitrator

Signature Date

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Public Arbitrator, Presiding Chair

Signature Date

Berwyn Davies
Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

Leon C. Tupy

Leon C. Tupy
Industry Arbitrator

4-6-2001
Signature Date

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