Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants
Henry and Rosalind Drabin

Case Number: 06-04414

Names of the Respondents
Bear Stearns & Co., Inc.
Axiom Capital Management, Inc.
Gary J. Gross
Mark David Martino
Maria Wilson
David Victor Siegel

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Henry and Rosalind Drabin, hereinafter referred to as "Claimants": Scott L. Silver, Esq., Blum & Silver, LLP, Coral Springs, Florida.

For Respondents Bear Stearns & Co., Inc. ("Bear Stearns"), Axiom Capital Management, Inc. ("Axiom"), Mark David Martino ("Martino"), Maria Wilson ("Wilson") and David Victor Siegel ("Siegel"): April M. Chung, Esq., Krebsbach & Snyder, New York, New York.

Respondent Gary J. Gross ("Gross"), appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: September 26, 2006.
Claimants signed the Uniform Submission Agreement: September 25, 2006.
Motion to Dismiss and Statement of Answer filed by Respondent Bear Stearns on or about: December 22, 2006.
Respondent Bear Stearns signed the Uniform Submission Agreement: December 28, 2006.
Statement of Answer filed by Respondents Axiom, Martino, Wilson, Gross and Siegel on or about: December 22, 2006.
Corrected Statement of Answer filed by Respondents Axiom, Martino, Wilson, Gross and Siegel on or about: January 9, 2007.
Respondents Axiom, Gross and Wilson signed the Uniform Submission Agreement: October 23, 2006.
Respondents Martino and Siegel signed the Uniform Submission Agreement: October 24, 2006.
Response to Motion to Dismiss filed by Claimants on or about: April 3, 2007.
Reply in Support of its Motion to Dismiss filed by Respondent Bear Stearns on or about: April 19,

2007.
Motion for Default Judgment against Respondent Gross filed by Claimants on or about: August 27, 2007.

CASE SUMMARY

Claimants asserted the following causes of action: 1) violation of industry rules; 2) violation of Florida Statutes, Chapter 517; 3) churning; 4) breach of contract; 5) breach of fiduciary duty; 6) common law fraud; and 7) negligent hiring, retention and supervision. The causes of action relate to the purchase of various stocks including, but not limited to, USTelematics, Avantogen Oncology, Icurie, Xenomics and Vistula Communications in Claimants' accounts.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In addition, Respondent Bear Stearns filed a Motion to Dismiss based on its sole role as the clearing firm for the trades at issue.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of $1,000,000.00, punitive damages, commissions, markdowns, mark-ups and fees, attorneys' fees to be determined by a court of competent jurisdiction against Respondents Axiom and Gross, interest, rescission, costs and such other relief as the Panel deemed just and proper.

Respondent Bear Stearns requested that the Statement of Claim be dismissed in its entirety and an award of costs and such other relief as the Panel deemed proper.

Respondents Axiom, Martino, Wilson, Gross and Siegel requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On or about April 23, 2007, the Panel issued an Order that denied Respondent Bear Steam's Motion to Dismiss.

On or about October 25, 2007, Claimants filed with FINRA Dispute Resolution a Notice of Dismissal of Respondents Bear Stearns, Axiom, Martino, Wilson and Siegel. Therefore, the Panel made no further determination as to these Respondents.

Respondent Gross did not appear at the final hearing. Upon review of the file and the representations made by/on behalf of the Claimants, the undersigned arbitrators (the "Panel") determined that Respondent Gross has been properly served with the Statement of Claim, answered 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 Code of Arbitration Procedure (the "Code").

Arbitrator Jarolem did not appear at the final hearing for this matter. Claimants determined that they would proceed with this arbitration with the two remaining arbitrators.

During the final hearing for this matter, Claimants renewed their request for a default judgment against Respondent Gross. The Panel granted this request. In addition, at the final hearing, Claimants disclosed receipt of compensatory damages from other parties thereby reducing their request for direct compensatory damages from Respondent Gross to $14,223.98.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

AWARD

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

Respondent Gross is found liable for churning, breach of fiduciary duty, suitability and violation of Florida Statutes, Chapter 517 and shall pay to Claimants compensatory damages in the amount of $14,223.98.

Respondent Gross is found liable and shall pay to Claimants punitive damages in the amount of $417,671.94. Claimants have proved to this Panel that Respondent Gross manifested a reckless and gross disregard to the Claimants in violation of Florida Statutes, Chapter 517. This punitive damage award is based on three times the total damages caused by Respondent Gross, which Claimants have demonstrated in their Exhibit II to be $139,223.98.

Respondent Gross is liable and shall pay to Claimants interest on the compensatory damages awarded at the legal rate in the state of Florida per annum from September 30, 2006 until the date of payment of the Award.

Respondent Gross is liable for violation of Florida Statutes, Chapter 517 and shall pay to Claimants reasonable attorney's fees in an amount to be determined by a court of competent jurisdiction.

Respondent Gross is found liable and shall pay to Claimants the sum of $375.00 representing reimbursement of the claim filing fee previously paid by Claimants to FINRA Dispute Resolution.

Any and all claims for relief not specifically addressed herein, are denied.

FEES

Pursuant to the Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = $ 375.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Bear Stearns is a party and a member firm.

Member surcharge	= $ 2,250.00
Pre-hearing process fee	= $ 750.00
Hearing process fee	= $ 4,000.00
Total Member Fees	= $ 7,000.00

Respondent Axiom is a party and a member firm.

Member surcharge	= $ 2,250.00
Pre-hearing process fee	= $ 750.00
Hearing process fee	= $ 4,000.00
Total Member Fees	= $ 7,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No requests for adjournments were filed in this matter for which fees were assessed.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No cancellation fees were 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.

No injunctive relief fees were incurred during this proceeding.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with the Panel @ $1,200.00/session			= $2,400.00
Pre-hearing conferences:	February 12, 2007	1 session	
	April 23, 2007	1 session	

One (1) Hearing session with the Panel @ $1,200.00/session	= $1,200.00
Hearing Date: November 19, 2007 1 session	
Total Forum Fees	= $3,600.00

The Panel has assessed the total forum fees in the amount of $3,600.00 to Respondent Gross.

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.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee	= $ 375.00
Total Fees	= $ 375.00
Less payments	= $ 375.00
Balance Due FINRA Dispute Resolution	= $ 0.00

Respondent Bear Stearns is solely liable for:

Member Fees	= $ 7,000.00
Total Fees	= $ 7,000.00
Less payments	= $ 7,000.00
Balance Due FINRA Dispute Resolution	= $ 0.00

Respondent Axiom is solely liable for:

Member Fees	= $ 7,000.00
Total Fees	= $ 7,000.00
Less payments	= $ 7,000.00
Balance Due FINRA Dispute Resolution	= $ 0.00

Respondent Gross is solely liable for:

Forum Fees	= $ 3,600.00
Total Fees	= $ 3,600.00
Less payments	= $ 0.00
Balance Due FINRA Dispute Resolution	= $ 3,600.00

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

ARBITRATION PANEL

Mauricio Arcadier	-	*Public Arbitrator, Presiding Chairperson*
Raymond W. Snow	-	*Non-Public Arbitrator*

Concurring Arbitrators' Signatures

/s/
Mauricio Arcadier
Public Arbitrator, Presiding Chairperson

11/21/07
Signature Date

/s/
Raymond W. Snow
Non-Public Arbitrator

11/21/07
Signature Date

11/21/07
Date of Service (For FINRA Dispute Resolution office use only)

ARBITRATION PANEL

Mauricio Arcadier	-	*Public Arbitrator, Presiding Chairperson*
Raymond W. Snow	-	*Non-Public Arbitrator*

Concurring Arbitrators' Signatures

Mauricio Arcadier
Public Arbitrator, Presiding Chairperson

11/21/7
Signature Date

Raymond W. Snow
Non-Public Arbitrator

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)

ARBITRATION PANEL

Mauricio Arcadier	-	*Public Arbitrator, Presiding Chairperson*
Raymond W. Snow	-	*Non-Public Arbitrator*

Concurring Arbitrators' Signatures

Mauricio Arcadier
Public Arbitrator, Presiding Chairperson

Signature Date

Raymond W. Snow
Non-Public Arbitrator

Nov. 21, 2007
Signature Date

Date of Service (For FINRA Dispute Resolution office use only)