

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Joseph Mannino v. Baxter Banks & Smith, Ltd. and Haskel P. Stone, III

Case Number: 00-819

Hearing Site: Southfield, Michigan

REPRESENTATION OF PARTIES

Claimant, Joseph Mannino ("Mannino"), hereinafter referred to as "Claimant": David M. Foster, Esq., Farmington Hills, Michigan.

Respondent, Baxter Banks & Smith, Ltd. ("BBS"), hereinafter referred to as "Respondent BBS": F. Martin McDermott, Baxter Banks & Smith, Ltd., St. Petersburg, Florida

Respondent, Haskel P. Stone, III, "Stone", hereinafter referred to as "Respondent Stone": did not appear.

CASE INFORMATION

Statement of Claim filed on or about: February 21, 2000

Claimant signed the Uniform Submission Agreement: February 15, 2000

Statement of Answer filed by Respondent, Baxter Banks & Smith, Ltd., on or about: September 26, 2000

No Statement of Answer filed by Respondent Stone

CASE SUMMARY

Claimant asserted the following causes of action: Breach of fiduciary duty for recommending unsuitable securities; breach of fiduciary duty by Baxter Banks to properly supervise their employees and protect the investments of their customers; fraudulent misrepresentation violation of section 10(b) of the Securities Exchange Act and SEC Rule 10B-5; Michigan blue sky law violations; and negligence. The causes of action relate to the alleged improper recommendation, purchase, and sale of stock in Intelliworxx and Biz Holdings.

Unless specifically admitted in its Answer, Respondent BBS denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested \$48,378.00 in damages, plus costs, interest, attorneys fees, and punitive damages of \$145,134.00.

Respondent BBS requested a finding in its favor and other unspecified relief.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators (the "Panel") determined that Respondent Haskel P. Stone, III, has 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").

Respondents, Baxter Banks & Smith, and Haskel P. Stone, III, did not file with the NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

AWARD

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

Finding of Fact:

- 1.) The Panel finds that Respondents Baxter Banks & Smith, Ltd. and Haskel P. Stone, III, committed fraud in their dealings with Claimant, Joseph Mannino.

Rulings:

- 1.) Respondents Baxter Banks & Smith, Ltd. and Haskel P. Stone, III, are jointly and severally liable for and shall pay to Claimant, Joseph Mannino, the sum of \$48,378.00 in compensatory damages;
- 2.) Respondents Baxter Banks & Smith, Ltd., and Haskel P. Stone, III, are jointly and severally liable for and shall pay to Claimant, Joseph Mannino, the sum of \$16,929.00 in attorneys fees pursuant to MCLA 541.810(a) and common law;
- 3.) Respondents Baxter Banks & Smith, Ltd. and Haskel P. Stone, III, are jointly and severally liable for and shall pay to Claimant, Joseph Mannino, the sum of \$1,425.00 in costs;
- 4.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and

- 5.) That any relief not specifically enumerated, including punitive damages is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc., will retain the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 300.00

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. In this matter, the member firm is a party.

Member surcharge = \$1,500.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$2,500.00

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1,125.00 = \$1,125.00

Pre-hearing conference: September 20, 2000 1 session

One (1) Hearing sessions x \$1,125.00 = \$1,125.00

Hearing Date: January 9, 2001 1 session

Total Forum Fees = \$2,250.00

The Panel has assessed \$1,125.00 of the forum fees to Joseph Mannino.

The Panel has assessed \$1,125.00 of the forum fees to Baxter Banks & Smith, Ltd.

Fee Summary

Claimant, Joseph Mannino, be and hereby is solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 1,125.00

Total Fees = \$ 1,425.00

Less payments = \$ 1,425.00

Balance Due NASD Dispute Resolution, Inc. = \$ 0.00

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Respondent, Baxter Banks & Smith, Ltd., be and hereby is solely liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 5,725.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,725.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

Carole M. Crosby, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Elizabeth K. Bransdorfer
Elizabeth K. Bransdorfer, Esq.
Public Arbitrator

1-29-01
Signature Date

Diane Catherine Tietmeyer
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD REGULATION

Date of Service (For NASD office use only)

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Respondent, Baxter Banks & Smith, Ltd., be and hereby is solely liable for:

Member Fees	= \$ 4,600.00
Forum Fees	= \$ 1,125.00
Total Fees	= \$ 5,725.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 5,725.00

All balances are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

Carole M. Crosby, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Elizabeth K. Bransdorfer, Esq.
Public Arbitrator

Signature Date

Diane C. Tietmeyer
Diane Catherine Tietmeyer
Industry Arbitrator

1/26/01
Signature Date

Date of Service (For NASD office use only)