

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Names of Claimants

David W. Goodman, individually and as trustee of the Rocky Mountain Psychological Services and Stress and Pain Management Center Money Purchase Plan u/a dated 01/01/84, and Baerbel Susanne Goodman

Names of Respondents

Richard Edward Madigan and Richard E. Madigan Associates, Inc.

Case No.: 00-03723

Hearing Site: Raleigh, North Carolina

REPRESENTATION OF PARTIES

For David W. Goodman, individually and as trustee of the Rocky Mountain Psychological Services and Stress and Pain Management Center Money Purchase Plan u/a dated 01/01/84, and Baerbel Susanne Goodman, hereinafter collectively referred to as "Claimants": Leon Henderson, Jr., Esq., Battle, Winslow, Scott & Wiley, P.A., Rocky Mount, North Carolina.

For Richard Edward Madigan ("Madigan") and Richard E. Madigan Associates, Inc. ("REMA"), hereinafter collectively referred to as "Respondents": Neil Riemann, Esq., Smith, Helms, Mulliss & Moore, L.L.P., Raleigh, North Carolina.

CASE INFORMATION

Statement of Claim filed on or about: August 25, 2000.

Claimants signed Uniform Submission Agreements on: August 24, 2000.

Statement of Answer filed by Respondents on or about: November 2, 2000.

Respondents signed Uniform Submission Agreements on: September 26, 2000.

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of fiduciary duty; and 2) unsuitability. The causes of action relate to investments in shares of stock, including IBM, Walt Disney, Advance Micro Devices, U.S. Long Distance, AT&T and Micron Technology.

Respondents denied the allegations of wrongdoing made in the Statement of Claim and

asserted the following defenses: 1) Claimants are barred by the applicable statute of limitations; 2) Claimants' claims may be preempted by ERISA; 3) Claimants failed to state a claim upon which relief may be granted; 4) Claimants are barred by their contributory negligence; 5) Claimants assumed the risks of their investments and losses; 6) Claimants are barred by the doctrines of estoppel, waiver and laches; 7) Respondents did not owe a fiduciary duty to Claimants; and 8) Claimants failed to mitigate their damages.

RELIEF REQUESTED

At the time of filing of their Statement of Claim, Claimants requested: 1) compensatory damages in an amount greater than \$100,000.00 but less than \$500,000.00; 2) interest; 3) costs; 4) attorneys' fees; and 5) such other relief the undersigned arbitrators (the "Panel") deemed just and proper. At the evidentiary hearing, Claimants requested: 1) compensatory damages in an amount less than \$75,000.000; 2) interest; 3) costs; 4) attorneys' fees; and 5) such other relief the Panel deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim; 2) costs; 3) attorneys' fees; and 4) such other relief the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Claimant Baerbel Susanne Goodman did not appear at the evidentiary hearing. Upon review of the file, the Panel determined that Claimant Baerbel Susanne Goodman had received notice of the hearing and that arbitration of the matter would proceed without Claimant Baerbel Susanne Goodman present in accordance with the NASD Code of Arbitration Procedure (the "Code").

At the evidentiary hearing and upon conclusion of Claimants' case-in-chief, the Panel denied Respondents' ore tenus motion to dismiss.

The parties at the evidentiary hearing 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 (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims are denied in their entirety.
2. The parties shall bear their respective costs and attorneys' fees.
3. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect 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 that employed the associated person at the time of the events giving rise to the dispute. In this matter, no member firm is a party and no member firm employed Respondent Madigan at the time of the events giving rise to dispute. Therefore, no member fees are assessed.

Adjournment Fees

Adjournments requested during these proceedings:

There were no adjournments requested during these proceedings.

Forum Fees and Assessments

The Panel has the authority to assess 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 Panel x \$1,125.00 = \$1,125.00

Pre-hearing conference: March 20, 2001 1 session

Four (4) Hearing sessions x \$1,125.00 = \$4,500.00

Hearing Dates: September 18, 2001 2 sessions

September 19, 2001 2 sessions

Total Forum Fees = \$5,625.00

The Panel has assessed \$2,812.50 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$2,812.50 of the forum fees jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

FEE SUMMARY

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$2,812.50

Total Fees	= \$3,112.50
Less payments	= \$1,425.00

Balance Due NASD Dispute Resolution, Inc.	= \$1,687.50
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Respondents be and hereby are jointly and severally liable for:

Forum Fees	= \$2,812.50
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Total Fees	= \$2,812.50
Less payments	= \$ 0.00

Balance Due NASD Dispute Resolution, Inc.	= \$2,812.50
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All balances are due and payable to NASD Dispute Resolution, Inc. immediately upon receipt of the Award by the parties pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

W. Allen Schmitt	-	Public Arbitrator, Presiding Chair
Edward T. Curry, Jr.	-	Public Arbitrator
Charles K. ReCorr	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
W. Allen Schmitt
Public Arbitrator, Presiding Chair

Signature Date

/s/
Edward T. Curry, Jr.
Public Arbitrator

Signature Date

/s/
Charles K. ReCorr
Non-Public Arbitrator

Signature Date

October 12, 2001
Date of Service

There were no administrative costs incurred during these proceedings.

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W. Allen Schmitt

Edward T. Curry, Jr.

Charles K. ReCorr

- Public Arbitrator, Presiding Chair
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures



W. Allen Schmitt

Public Arbitrator, Presiding Chair

10/11/01
Signature Date

Edward T. Curry, Jr.
Public Arbitrator

Signature Date

There were no administrative costs incurred during these proceedings.

SEE SUMMARY

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ARBITRATION PANEL

W. Allen Schmitt
Edward T. Curry, Jr.
Charles K. ReCorr

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

W. Allen Schmitt
Edward T. Curry, Jr.
Charles K. ReCorr

Concurring Arbitrators' Signatures

W. Allen Schmitt
Public Arbitrator, Presiding Chair

Edward T. Curry, Jr.
Public Arbitrator

Signature Date

Oct 11, 2001
Signature Date

Arbitration No. 00-03723

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Charles K. ReCorr
Non-Public Arbitrator

10-12-91
Signature Date

Date of Service

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