

**Stipulated Award**  
**NASD Dispute Resolution**

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**In the Matter of the Arbitration Between:**

**Wesley Lund, Lilly Lund, Gordon A. Mowat, Paul W. Muma, Clarence Roe, Jr., Elsie M. Roe, Edwin Ness, Judith Ness, Arnold Ness, and Roberta Bryan, Claimants v. RBC Dain Rauscher, Inc., Wayne A. Josephson, Nelson D. Civello, and Linda Lee Henderson, Respondents**

**Case Number: 00-03800**

**Hearing Site: Seattle, Washington**

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**Nature of the Dispute: Customers v. Member and Associated Persons**

**REPRESENTATION OF PARTIES**

**For Claimants:**

**Christopher H. Howard, Esq.  
Holland & Knight, LLP  
Seattle, Washington**

**For Respondents:**

**Curt Roy Hinline, Esq.  
Dorsey & Whitney, LLP  
Seattle, Washington**

**CASE INFORMATION**

**Statement of Claim filed: August 30, 2000**

**Claimant Wesley Lund's Uniform Submission Agreement signed: August 23, 2000**

**Claimant Lilly Lund's Uniform Submission Agreement signed: August 23, 2000**

**Claimant Gordon A. Mowat's Uniform Submission Agreement signed: August 30, 2000**

**Claimant Paul W. Muma's Uniform Submission Agreement signed: August 25, 2000**

**Claimant Clarence Roe, Jr.'s Uniform Submission Agreement signed: August 24, 2000**

**Claimant Elsie M. Roe's Uniform Submission Agreement signed: August 24, 2000**

**Claimant Arnold Ness' Uniform Submission Agreement signed: August 24, 2000**

**Claimant Edwin Ness' Uniform Submission Agreement signed: August 25, 2000**

Claimant Judith Ness' Uniform Submission Agreement signed: August 28, 2000

Claimant Roberta Bryan's Uniform Submission Agreement signed: Signed but not dated

Joint Statement of Answer filed: November 14, 2000

Respondent RBC Dain Rauscher, Inc.'s Uniform Submission Agreement signed:  
September 25, 2000

Respondent Wayne A. Josephson's Uniform Submission Agreement signed: February 15, 2001

Respondent Nelson D. Civello's Uniform Submission Agreement signed: October 6, 2000

Respondent Linda Lee Henderson's Uniform Submission Agreement signed:  
September 21, 2000

#### **CASE SUMMARY**

Claimants alleged that analyst reports concerning Boston Chicken bonds, researched and prepared by Respondents, contained false and misleading information. Claimants further asserted that their brokers failed to disclose fully to Claimants information Respondents received about the bonds, including the nature of the investment risk. Claimants' allegations involved transactions in Boston Chicken, Inc.

Respondents contended that all statements in their analyst reports and made to Claimants were true and complete. Respondents denied the allegations of wrongdoing set forth in Claimants' Statement of Claim.

#### **RELIEF REQUESTED**

Claimants requested \$140,365.30 in compensatory damages, interest, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety.

#### **OTHER ISSUES CONSIDERED AND DECIDED**

On September 12, 2001, the Parties stipulated to the dismissal of Respondents Nelson D. Civello and Linda Lee Henderson without prejudice.

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

**STIPULATION**

It is hereby stipulated by Claimants and Respondents, through the undersigned attorneys of record, that:

1. All of Claimants' claims asserted against Respondents are hereby dismissed with prejudice.
2. Claimants do not object to the panel rendering the following award: The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Wayne A. Josephson's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Wayne A. Josephson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

**AWARD**

After considering the pleadings and the parties' stipulation, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimants' claims are dismissed with prejudice.
- 2) The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Wayne A. Josephson's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Wayne A. Josephson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
- 3) All other relief requested and not expressly granted is denied.

**FEES**

Pursuant to the Code, the following fees are assessed:

**Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee = \$ 300.00

**Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firms RBC Dain Rauscher Inc. is a party and the following fees are assessed:

Member Surcharge	= \$1,500.00
Pre-Hearing Process Fee	= \$ 600.00
<u>Hearing Process Fee</u>	<u>= \$2,500.00</u>
<b>Total Member Fees</b>	<b>= \$4,600.00</b>

**Adjournment Fees**

The following adjournment fees are assessed:

December 17-21, 2001 hearing dates adjournment requested by Claimants = \$1,125.00

The Panel assessed the adjournment fee of \$1,125.00 jointly and severally to Claimants.

**Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,125.00/session	= \$1,125.00
<u>Pre-hearing conference: July 11, 2001 1 session</u>	
<b>Total Forum Fees</b>	<b>= \$1,125.00</b>

1. The Panel assessed \$562.50 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$562.50 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
Adjournment Fee	= \$ 1,125.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 1,987.50
<u>Less payments</u>	<u>= \$(1,425.00)</u>
Balance Due NASD Dispute Resolution	= \$ 562.50

2. Respondent RBC Dain Rauscher, Inc. is charged with the following fees and costs:

Member Fees	= \$ 4,600.00
<u>Less payments</u>	<u>= \$(4,600.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents RBC Dain Rauscher, Inc., Wayne A. Josephson, Nelson D. Civello, and Linda Lee Henderson are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 562.50
<u>Less payments by RBC Dain Rauscher, Inc.</u>	<u>= \$ (600.00)</u>
Refund Due to RBC Dain Rauscher, Inc.	= \$ (37.50)

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

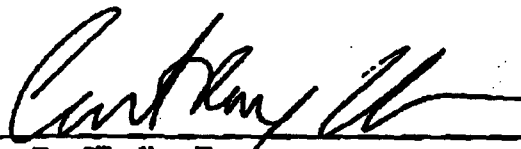
Party Representatives' Signatures

Dated: 11/29/06



Christopher H. Howard, Esq.  
Attorney for Claimants Wesley Lund, Lilly Lund,  
Gordon A. Mowat, Paul W. Muma, Clarence Roe, Jr.,  
Elsie M. Roe, Edwin Ness, Judith Ness, Arnold Ness  
and Roberta Bryan

Dated: 1/4/05




Curt Roy Hine, Esq.  
Attorneys for Respondents RBC Dain Rauscher, Inc.,  
Wayne A. Josephson, Nelson D. Civallo and  
Linda Lee Henderson

**ARBITRATION PANEL**

J. David Andrews, Esq.	-	Public Arbitrator, Presiding Chair
H. Yancey Reser, Esq.	-	Public Arbitrator
Joseph L. Mangan	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
J. David Andrews, Esq.  
Chair, Public Arbitrator

12/2/05  
Signature Date

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H. Yancey Reser, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

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Joseph L. Mangan  
Non-Public Arbitrator

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Signature Date

January 17, 2006  
Date of Service

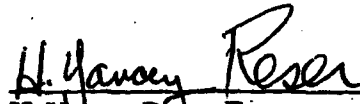
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<b>H. Yancey Reser, Esq.</b>	-	<b>Public Arbitrator</b>
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**Joseph L. Mangan**  
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12-2-05  
**Signature Date**

January 17, 2006  
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