

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

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In the Matter of the Arbitration Between:

Duane Wilke and Marie Wilke v. Aragon Financial Services, Inc. and David P. Bax

Case Number: 01-02700

Hearing Site: Las Vegas, Nevada

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**REPRESENTATION OF PARTIES**

For Claimants:

Richard Peter Kammet  
Investor Consumer Advocates  
Las Vegas, Nevada

For Respondent

Aragon Financial Services, Inc.:

Reza M. Bidgoli, Esq.  
Aragon Financial Services  
Brea, California

For Respondent

David P. Bax:

Joseph F. Kyle, Esq.  
Kyle & Kyle  
Las Vegas, Nevada

**CASE INFORMATION**

Statement of Claim filed: May 22, 2001

Claimants' Uniform Submission Agreement signed: October 28, 2000

Statement of Answer filed by Respondent Aragon Financial Services, Inc.: September 21, 2001

Statement of Answer filed by Respondent David P. Bax: August 21, 2001

Respondent Aragon Financial Services, Inc.'s Uniform Submission Agreement signed: September 14, 2001

Respondent David P. Bax's Uniform Submission Agreement signed: August 15, 2001

### **CASE SUMMARY**

Claimants alleged breach of fiduciary duty, common law fraud, negligence, professional malpractice, violation of NASD Rules 2310, 2310-2, and 2810, violation of NYSE Rule 405, violations of NRS 598.092 and 90.570 by Respondents in recommending investment in two separate equity funds.

Respondents, individually, denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages of \$54,223.00, punitive damages of \$25,000.00, attorney's fees, costs, and expenses.

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

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

Respondents Aragon Financial Services, Inc. filed an answer to the statement of claim and submitted a uniform submission agreement but failed to appear at the arbitration hearing. Upon review of the file and the representations made by the Claimants, the undersigned Panel determined that Respondent Aragon Financial Services, Inc. was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondents present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

The parties 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, testimony, and evidence presented at the hearing, the Arbitration Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Respondent David P. Bax is ordered to pay the Claimants the sum of \$1.00.
- 2) Respondent Aragon Financial Services, Inc. is dismissed without prejudice.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief 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	= \$ 225.00
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#### **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 which gave rise to the dispute, claim, or controversy. Accordingly, the member firm, Aragon Financial Services, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$1,000.00
Pre-hearing Processing Fee	= \$ 600.00
Hearing Processing Fee	= \$1,500.00
<b>Total Member Fees</b>	<b>= \$3,100.00</b>

#### **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 Panel. The following fees are assessed:

Three (3) Pre-hearing conference sessions with the panel @ \$750.00/session	= \$ 2,250.00
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Pre-hearing conference:	January 4, 2002	1 session
	March 6, 2002	1 session
	June 5, 2002	1 session

Three (3) Hearing sessions @ \$750.00/session	= \$ 2,250.00
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Hearing:	October 30, 2002	2 sessions
	October 31, 2002	1 session

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<b>Total Forum Fees</b>	<b>= \$ 4,500.00</b>
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1. The Panel assessed \$ 2,250.00 of the forum fees to Claimants.
2. The Panel assessed \$ 2,250.00 of the forum fees to Respondents jointly and severally.

**Fee Summary**

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

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,475.00
Less payments	= \$ ( 975.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,500.00</b>

2. Respondent Aragon Financial Services, Inc. is charged with the following fees and costs:

Member Fees	= \$ 3,100.00
Less payments	= \$ (1,600.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,500.00</b>

3. Respondents Aragon Financial Services, Inc. and David Bax are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 2,250.00
<b>Total Forum Fees Due NASD Dispute Resolution</b>	<b>= \$ 2,250.00</b>

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.

**Concurring Arbitrators' Signatures**

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DWIGHT E. GOULD  
Chairperson, Non-Public Arbitrator

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Signature Date

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G. TIMOTHY HAIGHT, DBA  
Public Arbitrator

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12/5/02  
Signature Date

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IRWIN S. SUGERMAN  
Public Arbitrator

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Signature Date

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12/9/02  
Date of Service

NASD Dispute Resolution

Arbitration No. 01-02700

Award Page 3 of 5

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Chairperson, Non-Public Arbitrator

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Signature Date

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G. TIMOTHY HAIGHT, DBA

Public Arbitrator

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

  
\_\_\_\_\_  
IRWIN S. SUGERMAN

Public Arbitrator

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12-6-01  
Signature Date

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12/9/02  
Date of Service