

**Stipulated Award**  
**NASD Dispute Resolution, Inc.**

In the Matter of the Arbitration Between

Robert A. Bochner ("Claimant") v. Tucker Anthony Inc., RBC Dain Rauscher Inc. (successor-by-merger to Tucker Anthony Inc.), Michael H. Rakowski and Stephen H. Stark

NASD Arbitration No. 02-01098

**REPRESENTATION OF PARTIES**

Claimant, Robert A. Bochner, was represented by Nicholas J. Guiliano, Esq. of the Law Offices of Nicholas J. Guiliano.

Respondents Tucker Anthony Inc., RBC Dain Rauscher Inc. (successor-by-merger to Tucker Anthony Inc.), Michael H. Rakowski and Stephen H. Stark were represented by Karl L. Marquardt, Esq. of Bressler Amery & Ross, P.C., New York, New York.

**CASE INFORMATION**

Statement of Claim filed on: February 20, 2002.

Statement of Answer filed by Respondents on: June 17, 2002.

**CASE SUMMARY**

Claimants asserted the following causes of action: (i) Fraud, (ii) Sale of Unsuitable Securities; (iii) Breach of Fiduciary Duty; (iii) Breach of Contract, (iv) Negligent Supervision; (v) Churning; (vi) Violations of Securities & Exchange Act 1934; and (vii) Violations of SEC Rule 10b-5.

Respondents denied all of the claims in the Statement of Claim and asserted the following affirmative defenses: (i) Statement of Claim fails to state a claim upon which relief can be granted; (ii) Respondents did not breach any duty to Claimant imposed by operation of law or contract; (iii) The transactions in question were appropriate and consistent with the Claimant's desires and objectives; (iv) Claimant's damages, if any, were not caused by Respondents; (v) Claimant is not entitled to punitive damages or costs of suit; (vi) Claimant's injuries or damages are due to the acts or omissions of third parties over whom Respondents have no control or right to control; (vii) Respondents acted in good faith; (viii) laches, waiver, ratification and estoppel; and (ix) failure to mitigate.

### **RELIEF REQUESTED**

Claimant requested the following damages:

Compensatory Damages	\$155,000.00
Attorney's fees and costs:	Amount unspecified
Punitive damages:	Amount unspecified

Respondents requested the following relief:

That Claimant's case be dismissed with prejudice in its entirety; and that the Arbitrators award Respondents costs and other further relief as they deem just and proper.

### **AWARD**

On the dates set forth below, the parties entered into an Agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of Respondents for entry of an Award, the written stipulation thereto, the Panel hereby grants the motion and enters this Award granting the following relief:

All claims asserted against Respondents Tucker Anthony Inc., RBC Dain Rauscher Inc. (successor-by-merger to Tucker Anthony Inc.), Michael H. Rakowski and Stephen H. Stark are dismissed with prejudice. Claimant and Respondents have entered into a confidential settlement agreement.

The Panel finds that Claimant's Statement of Claim fails to state a claim against Michael H. Rakowski and Stephen H. Stark and therefore recommends the expungement of all references to the above-captioned arbitration from the registration records of Michael H. Rakowski and Stephen H. Stark maintained by the NASD and the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD rules, Michael H. Rakowski and Stephen H. Stark must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Each party shall bear its own costs and expenses associated with the above-referenced arbitration.

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
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### **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 persons at the time of the events giving rise to the dispute. In this matter, the member firm Raymond James Associates is a party.

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

### **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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conference session with the Panel @ \$1,125.00 session	= \$2,250.00
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Pre-hearing conference:	Date: September 13, 2003	1 session
	February 27, 2003	1 session

Total Forum Fees	= \$2,250.00
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1. The Panel has assessed \$562.50 of the forum fees, against the Claimant.
2. The Panel has assessed \$562.50 of the forum fees against Respondent Tucker Anthony.
3. The Panel has assessed \$562.50 of the forum fees against Respondent Michael Rakowski.
4. The Panel has assessed \$562.50 of the forum fees against Respondent Stephen Stark.

## **Fee Summary**

1. Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 862.50
<u>Less payments</u>	<u>= \$1,425.00</u>
NASD Dispute Resolution shall refund to the Claimant	= \$ 562.50

2. Respondent Tucker Anthony be and is hereby solely liable for:

Member Fess	= \$5,200.00
<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$5,762.50
<u>Less payments</u>	<u>= \$5,762.50</u>
Balance Due NASD Dispute Resolution	= \$ .00

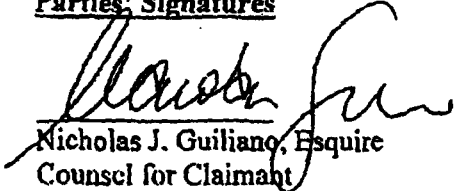
3. Respondent Michael Rakowski be and is hereby solely liable for:

<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 562.50
<u>Less payments</u>	<u>= \$ 562.50</u>
Balance Due NASD Dispute Resolution	= \$ .00

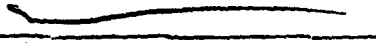
4. Respondent Stephen Stark be and is hereby solely liable for:

<u>Forum Fees</u>	<u>= \$ 562.50</u>
Total Fees	= \$ 562.50
<u>Less payments</u>	<u>= \$ 562.50</u>
Balance Due NASD Dispute Resolution	= \$ .00

Parties' Signatures

  
Nicholas J. Guiliano, Esquire  
Counsel for Claimant

1-9-07  
Date

  
Karl L. Marquardt, Esquire  
Counsel for Respondents  
Michael H. Rakowski  
RBC Dain Rauscher Incorporated  
(successor-by-merger to Tucker Anthony Incorporated)  
Respondent

1/12/09  
Date

ARBITRATION PANEL

Lawrence D. McGovern, Esq .	-	Public Arbitrator
Arthur C. Ramirez	-	Public Arbitrator
Michael Ross	-	Industry Arbitrator

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Lawrence McGovern

\_\_\_\_\_  
Date

\_\_\_\_\_  
Arthur C. Ramirez

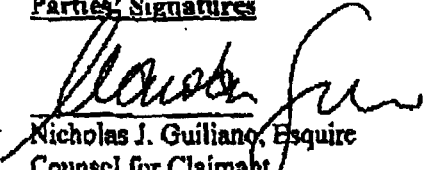
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Date

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Michael Ross

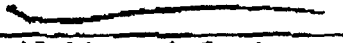
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Date

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Date Stipulated Award Served by NASD, Inc.

Parties' Signatures

  
Nicholas J. Guiliano, Esquire  
Counsel for Claimant

1-9-04  
Date

  
Karl L. Marquardt, Esquire  
Counsel for Respondents  
Michael H. Rakowski  
RBC Dain Rauscher Incorporated  
(successor-by-merger to Tucker Anthony Incorporated)  
Respondent

1/12/04  
Date

ARBITRATION PANEL

Lawrence D. McGovern, Esq.	-	Public Arbitrator
Arthur C. Ramirez	-	Public Arbitrator
Michael Ross	-	Industry Arbitrator

Concurring Arbitrators' Signatures

\_\_\_\_\_  
Lawrence McGovern

\_\_\_\_\_  
Date

\_\_\_\_\_  
Arthur C. Ramirez

\_\_\_\_\_  
Date

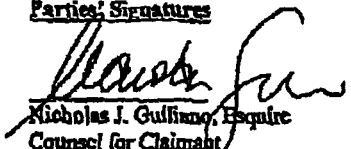
  
Michael Ross

5-18-04  
Date

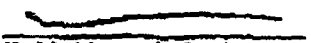
JULY 27, 2004

Date Stipulated Award Served by NASD, Inc.

Parties' Signatures

  
Nicholas J. Gullino, Esquire  
Counsel for Claimant

1-9-07  
Date

  
Karl L. Marquardt, Esquire  
Counsel for Respondents  
Michael H. Rakowski  
RBC Dain Rauscher Incorporated  
(successor-by-merger to Tucker Anthony Incorporated)  
Respondent

1/12/09  
Date

ARBITRATION PANEL

Lawrence D. McGovern, Esq. - Public Arbitrator  
Arthur C. Ramirez - Public Arbitrator  
Michael Ross - Industry Arbitrator

Concurring Arbitrators' Signatures

  
Lawrence McGovern

May 19, 2004  
Date

\_\_\_\_\_  
Arthur C. Ramirez

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michael Ross

\_\_\_\_\_  
Date

JULY 27, 2004  
Date Stipulated Award Served by NASD, Inc.