

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Roger T. Johnson

v.

02-04599

Minneapolis, Minnesota

Respondents

RBC Dain Rauscher, Inc. and Bradley T. Smegal

Nature of Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Roger T. Johnson ("Claimant") was represented by Eric J. Reinsche, Esq., of Felhaber, Larson, Fenlon & Vogt, P.A., Minneapolis, Minnesota.

RBC Dain Rauscher, Inc. ("RBC") and Bradley T. Smegal ("Smegal") hereinafter referred to as ("Respondents"), were represented by Kim Ruckdashel-Haley, Esq., of Lindquist & Vennum, P.L.L.P., Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about August 2, 2002. Submission Agreement of Claimant Roger T. Johnson was signed on or about July 29, 2002.

A Joint Statement of Answer was filed by Respondents RBC Dain Rauscher, Inc. and Bradley T. Smegal on or about October 2, 2002. Submission Agreement of Respondent RBC Dain Rauscher, Inc. was signed on or about September 30, 2002 by Molly A. Wurst of RBC Dain Rauscher. Submission Agreement of Respondent Bradley T. Smegal was signed on or about September 27, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: suitability, churning, breach of fiduciary duty, negligence, failure to supervise and breach of contract. The causes of action related to Claimant's allegation that Smegal improperly recommended that Claimant purchase several "B" class mutual funds for his IRA accounts. Claimant alleged that these investments contained several fees, including: back-end penalties for early redemption, 12b-1 fees, and management fees and that RBC was a member of the underwriting syndicate, for most of the mutual funds. Claimant alleged that these investments were not consistent with his objectives of a low-risk, moderate-yield IRA and

given the market gains from 1997-2000, that these recommendations cost him to suffer substantial monetary damages.

Respondents denied the allegations set forth in the Statement of Claim and asserted defenses including the following: Respondents violated no duties owed Claimant and cannot be held liable under theories of negligence, breach of fiduciary duty, breach of contract or any common law theory of liability; the trading in Claimant's accounts was consistent with Claimant's prior trading activity, investment directives, age and background; Claimant authorized and ratified the transactions in his accounts and willingly assumed the risks of the transactions; Claimant's claims are barred by the doctrines of waiver, estoppel and laches; and Claimant failed to take reasonable steps to mitigate any purported damages he alleged.

RELIEF REQUESTED

Claimant requested an award in the amount of \$1,000,000 in compensatory damages. In addition, Claimant requested an award of \$250,000 in punitive damages, plus attorney's fees, interest, costs and any other relief the Panel deemed just and equitable.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees. In addition Respondents requested that the Panel issue an order that all information regarding this case be expunged from the records of Respondent Smegal maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED & DECIDED

At the arbitration hearing, parties agreed to the panel's composition.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the originals remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

1. Respondent, RBC Dain Rauscher, Inc., is liable for and shall pay to Claimant, Roger T. Johnson, the sum of Fifty Thousand Dollars and No Cents (\$50,000.00) in compensatory damages;

2. Claimant's claims against Respondent Bradley Smegal are hereby denied and dismissed with prejudice.
3. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief, including punitive damages, by any party hereto are denied with prejudice; and
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys' fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 500

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, the member firm is RBC Dain Rauscher, Inc.

Member surcharge	= \$ 2,800
Pre-hearing process fee	= \$ 750
Hearing process fee	= \$ 5,000

Forum Fees and Assessments

The Arbitration 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. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$ 1,200 = \$ 2,400

Pre-hearing conferences:	03/10/2003	1 session
	07/31/2003	1 session

Six (6) Hearing sessions x \$ 1,200 = \$ 7,200

Hearing Dates:	09/08/2003	2 sessions
	09/09/2003	2 sessions
	09/10/2003	2 sessions

Total Forum Fees = \$ 9,600

The Arbitration Panel has assessed \$ 4,800 of the forum fees to Roger T. Johnson.

The Arbitration Panel has assessed \$ 4,800 of the forum fees, jointly and severally, to RBC Dain Rauscher, Inc., and Bradley T. Smegal.

Fee Summary

Claimant, Roger T. Johnson, is liable for:

Initial Filing Fee	= \$ 500
<u>Forum Fees</u>	= \$ 4,800
Total Fees	= \$ 5,300
<u>Less payments</u>	= \$ 1,700
Balance Due NASD Dispute Resolution	= \$ 3,600

Respondent, RBC Dain Rauscher, Inc., is liable for:

<u>Member Fees</u>	= \$ 8,550
Total Fees	= \$ 8,550
<u>Less payments</u>	= \$ 8,550
Balance Due NASD Dispute Resolution	= \$ 0

Respondents, RBC Dain Rauscher, Inc. and Bradley T. Smegal are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 4,800
Total Fees	= \$ 4,800
<u>Less payments</u>	= \$ 0
Balance Due NASD Dispute Resolution	= \$ 4,800

All balances are due to NASD Dispute Resolution pursuant to Rule 10330(g) of the Code of Arbitration

ARBITRATION PANEL

Robert R. Biglow, Esq. - Public Arbitrator, Presiding Chair
Julie A. Hennen - Non-Public Arbitrator
Frank E. Harvey - Non-Public Arbitrator

Concurring Arbitrators:

Robert R. Biglow, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Julie A. Hennen
Non-Public Arbitrator

Signature Date

Frank E. Harvey
Non-Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Robert R. Biglow, Esq. - Public Arbitrator, Presiding Chair
Julie A. Hennen - Non-Public Arbitrator
Frank E. Harvey - Non-Public Arbitrator

Concurring Arbitrators:

Robert R. Biglow
Robert R. Biglow, Esq.
Public Arbitrator, Presiding Chair

9-30-003
Signature Date

Julie A. Hennen
Julie A. Hennen
Non-Public Arbitrator

Signature Date

Frank E. Harvey
Frank E. Harvey
Non-Public Arbitrator

Signature Date

10/12/05
Date of Service

ARBITRATION PANEL

Robert R. Biglow, Esq. - Public Arbitrator, Presiding Chair
Julie A. Hennen - Non-Public Arbitrator
Frank E. Harvey - Non-Public Arbitrator

Concurring Arbitrators:

Robert R. Biglow, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Julie A. Hennen
Julie A. Hennen
Non-Public Arbitrator

10-04-03
Signature Date

Frank E. Harvey
Non-Public Arbitrator

Signature Date

10/11/03
Date of Service

ARBITRATION PANEL

Robert R. Biglow, Esq. - Public Arbitrator, Presiding Chair
Julie A. Hennen - Non-Public Arbitrator
Frank E. Harvey - Non-Public Arbitrator

Concurring Arbitrators:

Robert R. Biglow, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Julie A. Hennen
Non-Public Arbitrator

Signature Date

Frank E. Harvey

Frank E. Harvey
Non-Public Arbitrator

10/2/03

Signature Date

10/13/03

Date of Service