

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Howard and Nancy Goldfaden

and

Case Number: 02-06036
Hearing Site: Troy, Michigan

Names of Respondents

RBC Dain Rauscher, Inc.
Charles R. Federman and
Steven J. Kus

NATURE OF DISPUTE

Customers v. Member and Associated Persons

REPRESENTATION OF PARTIES

Howard and Nancy Goldfaden ("Claimants") were represented by Joel H. Kaufman, Esq., Farmington Hills, Michigan.

RBC Dain Rauscher, Inc. ("RBC"), Charles R. Federman ("Federman"), Steven J. Kus ("Kus"), collectively referred to as "Respondents," were represented by Brian F. Amery, Esq., and Hugo A. Hilgendorff, IV, Esq., Bressler, Amery & Ross, P.C., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about October 9, 2002. The Submission Agreement of Claimants Howard and Nancy Goldfaden was signed on or about September 25, 2003.

Statement of Answer was filed jointly by Respondents RBC, Federman, and Kus, on or about January 21, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability/violation of organization rules, churning, breach of contract, negligence/misrepresentation, violation of the Michigan Consumer Protection Act, breach of fiduciary duty, and federal and state security law violations including fraud and common law fraud. The causes of action relate to Claimants' allegations that their accounts were not diversified and were handled in contravention of their primary investment objective of "growth" and their moderate risk tolerance. The securities in dispute include Dense Pacific Micro, Talarian Corp., Halo Industries, Inc., and Agilent.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim upon which relief can be granted, the Statement of Claim is barred in whole or in part by the applicable statute of limitations, the transactions in the accounts were appropriate and consistent with the Claimants' desires and objective, and Respondents did not breach any duty imposed by operation of law or contract.

RELIEF REQUESTED

Claimants requested an award in the amount of \$172,679.06, including \$141,182.00 in the joint account and \$31,497.06 in Howard Goldfaden's individual account, plus exemplary damages, interest, costs, and attorney fees.

Respondents requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs and other further relief the Panel deems just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Respondent RBC Dain Rauscher, Inc., Charles R. Federman and Steven J. Kus did not file with the NASD Dispute Resolution properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, and appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

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 original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Respondents, RBC Dain Rauscher, Inc., and Charles R. Federman, are jointly and severally liable for and shall pay to Claimants, Howard and Nancy Goldfaden, the sum of \$4,024.10 in compensatory damages;
- 2.) Claimants' claims against Respondent Steven J. Kus are denied and dismissed with prejudice;

- 3.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 4.) That any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution 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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is RBC Dain Rauscher, Inc.

| | |
|-------------------------|---------------|
| Member surcharge | = \$ 1,700.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$ 2,750.00 |

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

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|---|---------------|
| One (1) Pre-hearing session with Panel x \$1,125.00 | = \$ 1,125.00 |
| Pre-hearing conference: September 8, 2003 1 session | |

| | |
|--|---------------|
| Four (4) Hearing sessions x \$1,125.00 | = \$ 4,500.00 |
| Hearing Dates: March 24, 2004 2 sessions | |
| March 25, 2004 2 sessions | |

| | |
|------------------|---------------|
| Total Forum Fees | = \$ 5,625.00 |
|------------------|---------------|

The Arbitration Panel has assessed \$5,625.00 of the forum fees jointly and severally to RBC Dain Rauscher, Inc., and Charles R. Federman.

Fee Summary

Claimants, Howard and Nancy Goldfaden, are jointly and severally liable for:

| | |
|--|---------------|
| <u>Initial Filing Fee</u> | = \$ 300.00 |
| <u>Total Fees</u> | = \$ 300.00 |
| <u>Less payments</u> | = \$ 1,425.00 |
| <u>Refund Due from NASD Dispute Resolution</u> | = \$ 1,125.00 |

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

| | |
|--|---------------|
| <u>Member Fees</u> | = \$ 5,200.00 |
| <u>Total Fees</u> | = \$ 5,200.00 |
| <u>Less payments</u> | = \$ 2,450.00 |
| <u>Balance Due NASD Dispute Resolution</u> | = \$ 2,750.00 |

Respondents, RBC Dain Rauscher, Inc., and Charles R. Federman, are jointly and severally liable for:

| | |
|--|---------------|
| <u>Forum Fees</u> | = \$ 5,625.00 |
| <u>Total Fees</u> | = \$ 5,625.00 |
| <u>Less payments</u> | = \$ 0.00 |
| <u>Balance Due NASD Dispute Resolution</u> | = \$ 5,625.00 |

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

ARBITRATION PANEL

David E. Nims, III, Esq. - Public Arbitrator, Presiding Chair

Kenneth J. Safran, Esq. - Public Arbitrator

Mary Ann Golin, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ David E. Nims, Esq.
David E. Nims, III, Esq.
Public Arbitrator, Presiding Chair

03/29/04
Signature Date

/s/ Kenneth J. Safran, Esq.
Kenneth J. Safran, Esq.
Public Arbitrator

03/26/04
Signature Date

/s/ Mary Ann Golin, Esq.
Mary Ann Golin, Esq.
Non-Public Arbitrator

03/26/04
Signature Date

03/29/04
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 02-06038
Award Page 4 of 4

Fee Summary

Claimants, Howard and Nancy Goldfaden, are jointly and severally liable for:

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Public Arbitrator, Presiding Chair


Kenneth J. Safran, Esq.
Public Arbitrator

Signature Date

3/26/04
Signature Date

Mary Ann Golin, Esq.
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 02-08036
 Award Page 4 of 4

Fee Summary

Claimants, Howard and Nancy Goldfaden, are jointly and severally liable for:

| | |
|--|---------------|
| <u>Initial Filing Fee</u> | = \$ 300.00 |
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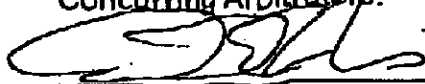
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3/29/04
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Concurring Arbitrators:

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Public Arbitrator, Presiding Chair

Signature Date

Kenneth J. Safran, Esq.
Public Arbitrator

Signature Date

Mary Ann Golin
Mary Ann Golin, Esq.
Non-Public Arbitrator

March 26, 2004
Signature Date

Date of Service (For NASD office use only)