

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Donald E. and Helen A. Schroeder, individually
and as Trustees of the Donald E. and Helen A. Schroeder Revocable Trust

and

02-06453
Phoenix, Arizona

Name of Respondents

Lawson Financial Corporation
Robert W. Lawson

Nature of the Dispute: Customer vs. Member and Associated Person

REPRESENTATION OF PARTIES

Donald E. and Helen A. Schroeder, individually and as Trustees of the Donald E. and Helen A. Schroeder Revocable Trust ("**Claimants**") were represented by Jon A. Titus, Esq. and Michael F. Patterson, Esq., Titus, Brueckner & Berry, P.C., Scottsdale, Arizona.

Lawson Financial Corporation ("**Respondent Lawson Financial**") and Robert W. Lawson ("**Respondent Lawson**") (collectively as "**Respondents**") were represented by Stephen Murphy, Esq., Stephen Murphy, PA, Phoenix, Arizona.

CASE INFORMATION

The Statement of Claim was filed on or about October 28, 2002. Claimants' Amended Statement of Claim was filed on or about April 21, 2003. Submission Agreement of Claimant Donald E. and Helen A. Schroeder, individually and as Trustees of the Donald E. and Helen A. Schroeder Revocable Trust was signed on October 24, 2002.

Statement of Answer was filed by Respondents Lawson Financial Corporation and Robert W. Lawson on or about December 26, 2002. Answer to Amended Statement of Claim was filed on or about May 5, 2003.

CASE SUMMARY

Claimants alleged that Respondents engaged in misrepresentation and omissions under the Arizona Securities Law A.R.S. §§ 44-1991 and 1992; made unsuitable recommendations; breached their

fiduciary duty, trust and agency; engaged in negligent misrepresentation; were negligent; breached their contract; and violated the fraud provisions of the Arizona Investment Management Act.

Respondents denied the allegations set forth in the Statement of Claim. In their Answer, Respondents specifically stated as follows:

The Schroeders are experienced knowledgeable investors who made a reasoned decision to invest in non-rated revenue bonds. They elected to purchase this type of investment on eleven separate occasions. Each time they purchased a new offering, they received an official statement. The Schroeders admit in their Statement of Claim that Mr. Schroeder is a knowledgeable investor and also that he "has done pretty well at it." Claimants also admit that they read and understood the official statements which describe the various offerings. In particular, the Schroeders admit in the Statement of Claim that they read and understood the risk factors described in the official statement.

The Schroeders received the same detailed information concerning risk for each of the bonds they purchased on the secondary market. Therefore, the only difference between Redford and Tulsa and the other projects the Schroeders invested in, is that unfortunately, the management of these two particular offerings was not able to perform well enough to make the projects successful. Lawson Financial Corporation had no way to predict these unforeseen events at the time the offerings were made. Respondents made the Schroeders aware of the risk of default, and made certain they understood that risk. The Schroeders made the decision to accept this risk.

Each of the eleven non-rated bond issues purchased by the Schroeders involved the risk of default and each contained a higher risk of default than rated bonds. The Schroeders elected to invest in non-rated, higher risk securities in order to receive the higher return associated with these types of investments. The Schroeders knew and accepted that this higher yield meant they were investing in securities which involved a higher risk of default.

In their Answer to Amended Statement of Claim, Respondents stated as follows:

Respondents were exempt from the provisions of this law until it was amended in April of 2002. From 1994 when the law was enacted to April 2002, the Arizona Investment Management Act provided an exemption for registered dealers and salesmen,...

In April of 2002, the Arizona legislature amended this law and limited the exemption for registered brokerage firms and salesmen to the licensing requirements of the law.

Respondents however, did not give the Claimants any investment advice after the law was amended in April of 2002. The Claimants made their last purchase from the Respondents in May of 2000. Additionally, Claimants began this arbitration in October of 2002, and there

was no contact of any kind between the Respondents and the Claimant from April to October 2002.

RELIEF REQUESTED

Claimants requested an award against Respondents as follows:

- A. For actual damages for Claimants Don and Helen Schroeder in an amount to be determined by the arbitration panel, including, *inter alia*, the face amount of the Redford and Tulsa Bonds (\$205,000), plus all unpaid interest on such bonds at the face amount of the bonds (7.25% and 6.75% respectively), in a current approximate amount of \$45,000, currently a total amount of actual damages of approximately \$250,000;
- B. For market opportunity losses in an amount to be determined by the arbitration panel;
- C. For rescission of the Redford Bond and Tulsa Bond sales;
- D. For disgorgement of all commissions or underwriting fees paid to Respondents with respect to the Redford or Tulsa Bonds;
- E. For interest on the principal invested at the legal rate of ten percent (10%) from the dates of Claimants' investments until paid;
- F. For Claimants' reasonable attorneys' fees. Costs and other expenses incurred and accruing herein;
- G. Respondents' conduct evidences deliberate misrepresentations and omissions, deliberate targeting of elderly investors, and deliberate disregard of the Claimants' investment needs. Accordingly, punitive damages of \$250,000 should be assessed against Respondents to deter such conduct and set an example; and
- H. For such other relief as the arbitration panel may deem appropriate.

Respondents requested that the claims asserted against them be denied in its entirety and that they be awarded their costs and attorneys' fees.

In their Answer to Amended Statement of Claim, Respondents stated as follows:

Wherefore, since the Respondents were exempt from the provisions of the Investment Management Act until April of 2002 and had no contract with the Claimants from April 2002 to the date Claimants filed their arbitration complaint, Respondents respectfully request the following relief from the Panel.

- a. Dismiss Claimants' Seventh Claim for relief set forth in the Amended Statement of Claim.
- b. Award to the Respondents' attorney fees and costs involved in responding to Claimants' Amended Statement of Claim. Claimants' attorneys are experienced securities litigators who are well aware of the history of the Arizona Investment Management Act.

Claimants' attorneys therefore know that Respondents' were exempt from the provisions of this Act from the time of its enactment to the time the law was amended in April of 2002. Respondents also know that this period covers the entire time the Claimants did any business with the Respondents. Claimants' attorneys also know that Claimants' had no contract with Respondents from the time this law was amended in April 2002 through the date they commenced an arbitration action on behalf of the Claimants in October of that same year. Since Claimants' attorneys clearly know that the Arizona Investment Management Act did not apply to the Respondents, the only reason they could have for amending the Statement of Claim and alleging violations of the Act was to harass the Respondents and to cause the Respondents to incur additional expense in having to respond to the Amended Statement of Claim. Respondents have been severally prejudiced by being forced to expend money and resources as a result of Claimants' attorneys having fling [sic] a Claim which Claimants' attorneys know to be invalid. Respondents, therefore, are entitled to be reimbursed for these expenses.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Lawson Financial Corporation and Robert W. Lawson 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, appeared and testified at the hearing are bound by the determination of the arbitration panel on all issues submitted.

Claimant filed a motion for sanctions. The portion of the motion relating to a referral was denied. The portion of the motion relating to discovery sanctions was granted by a vote of two to one with Mr. Gunter dissenting.

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 the NASD Dispute Resolution (the "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 Lawson Financial Corporation and Robert W. Lawson shall be and hereby jointly and severally liable for and shall pay to Claimants Donald E. and Helen A. Schroeder, individually and as Trustees of the Donald E. and Helen A. Schroeder Revocable Trust the sum of \$88,365.72 compensatory damages consisting of loss of principal of \$65,763.98 and

prejudgment interest of \$22,601.74. Two causes of action were consolidated in the hearing. One cause related to the purchase of unrated bonds for a facility in Redford, Michigan. As to this cause, the panel found in favor of the Respondents and no award was made. The second cause of action related to the purchase of bonds for a housing authority in Tulsa, Oklahoma. The panel found in favor of the Claimants in the second cause of action.

2. Respondents Lawson Financial Corporation and Robert W. Lawson shall be and hereby jointly and severally liable for and shall pay to Claimants Donald E. and Helen A. Schroeder, individually and as Trustees of the Donald E. and Helen A. Schroeder Revocable Trust the sum of \$60,000.00. One half of such award is based upon the sanction relating to discovery and the remaining half based upon Arizona statute. Mr. Gunter dissented from the portion of the award based upon discovery sanctions but concurred in the total amount of the award with such award based solely upon Arizona statute.
3. Interest at the rate of 10% per annum is awarded on the above stated sums from and inclusive of the date of service of this Award to and inclusive of the date this Award is paid in full.
4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
5. 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 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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is Lawson Financial Corporation.

Member surcharge	\$	1,700.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	2,750.00
Total Member Fees	\$	5,200.00

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:

One (1) Pre-hearing session(s) with Panel x \$1,125.00.00	= \$1,125.00
Pre-hearing conference(s): March 25, 2003 1 session	
Four (4) Hearing sessions x \$1,125.00.00	= \$4,500.00
Hearing Date(s): October 7, 2003 2 sessions	
October 8, 2003 2 sessions	
Total Forum Fees	= \$5,625.00

The Arbitration Panel has assessed \$2,812.50 of the forum fees to Donald E. and Helen A. Schroeder, individually and as Trustees of the Donald E. and Helen A. Schroeder Revocable Trust.

The Arbitration Panel has assessed \$2,812.50 of the forum fees jointly and severally to Lawson Financial Corporation and, Robert W. Lawson.

Fee Summary

Claimants, Donald E. and Helen A. Schroeder, individually and as Trustees of the Donald E. and Helen A. Schroeder Revocable Trust, shall be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$	300.00
<u>Forum Fees</u>	= \$	<u>2,812.50</u>
Total Fees	= \$	3,112.50
<u>Less payments</u>	= \$	<u>-1,425.00</u>
Balance Due NASD Dispute Resolution	= \$	1,687.50

Respondent, Lawson Financial Corporation, shall be and hereby is liable for:

Type Filing Fee	= \$	0.00
Member Fees	= \$	5,200.00
<u>Forum Fees</u>	= \$	<u>0.00</u>
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	<u>-7,950.00</u>
Balance applied to fees below	= \$	-2,750.00

Respondents, Lawson Financial Corporation and Robert W. Lawson shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	<u>2,812.50</u>
Total Fees	= \$	2,812.50
<u>Less payments</u>	= \$	<u>-2,750.00</u>
Balance Due NASD Dispute Resolution	= \$	62.50

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Samuel L. McClaren, Esq. - Public Arbitrator, Presiding Chair
Paul D. Butt - Public Arbitrator
Jack Gunter - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Samuel L. McClaren
Samuel L. McClaren, Esq.
Public Arbitrator, Presiding Chair

October 31, 2003
Signature Date

/s/ Paul D. Butt
Paul D. Butt
Public Arbitrator

October 31, 2003
Signature Date

Dissenting in part:

/s/ Jack Gunter
Jack Gunter
Non-Public Arbitrator

October 31, 2003
Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 02-06453
Award Page 7 of 7

Respondent, Lawson Financial Corporation, shall be and hereby is liable for:

Type Filing Fee	= \$	0.00
Member Fees	= \$	5,200.00
<u>Forum Fees</u>	= \$	0.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	-7,950.00
Balance applied to fees below	= \$	-2,750.00

Respondents, Lawson Financial Corporation and Robert W. Lawson shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	2,812.50
Total Fees	= \$	2,812.50
<u>Less payments</u>	= \$	-2,750.00
Balance Due NASD Dispute Resolution	= \$	62.50

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Samuel L. McClaren, Esq. - Public Arbitrator, Presiding Chair

Paul D. Butt - Public Arbitrator

Jack Gunter - Non-Public Arbitrator

Concurring Arbitrators:



Samuel L. McClaren, Esq.
Public Arbitrator, Presiding Chair

Oct. 31, 2003
Signature Date

Paul D. Butt
Public Arbitrator

Signature Date

Dissenting in part:

Jack Gunter
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.
Arbitration No. 02-06453
Award Page 7 of 7

Respondent, Lawson Financial Corporation, shall be and hereby is liable for:

Type Filing Fee	= \$	0.00
Member Fees	= \$	5,200.00
Forum Fees	= \$	0.00
Total Fees	= \$	5,200.00
Less payments	= \$	-7,950.00
Balance applied to fees below	= \$	-2,750.00

Respondents, Lawson Financial Corporation and Robert W. Lawson shall be and hereby are jointly and severally liable for:

Forum Fees	= \$	2,812.50
Total Fees	= \$	2,812.50
Less payments	= \$	-2,750.00
Balance Due NASD Dispute Resolution	= \$	62.50

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Samuel L. McClaren, Esq. - Public Arbitrator, Presiding Chair
Paul D. Butt - Public Arbitrator
Jack Gunter - Non-Public Arbitrator

Concurring Arbitrators:

Samuel L. McClaren, Esq.
Public Arbitrator, Presiding Chair

Paul D. Butt
Paul D. Butt
Public Arbitrator

Signature Date

10/31/03

Signature Date

Dissenting in part:

Jack Gunter
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.

Arbitration No. 02-06453

Award Page 7 of 7

Respondent, Lawson Financial Corporation, shall be and hereby is liable for:

Type Filing Fee	= \$	0.00
Member Fees	= \$	5,200.00
<u>Forum Fees</u>	= \$	0.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	-7,950.00
Balance applied to fees below	= \$	-2,750.00

Respondents, Lawson Financial Corporation and Robert W. Lawson shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	2,812.50
Total Fees	= \$	2,812.50
<u>Less payments</u>	= \$	-2,750.00
Balance Due NASD Dispute Resolution	= \$	62.50

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Samuel L. McClaren, Esq. - Public Arbitrator, Presiding Chair

Paul D. Butt - Public Arbitrator

Jack Gunter - Non-Public Arbitrator

Concurring Arbitrators:

 Samuel L. McClaren, Esq.
 Public Arbitrator, Presiding Chair

 Signature Date

 Paul D. Butt
 Public Arbitrator

 Signature Date

Dissenting in part:


 Jack Gunter
 Non-Public Arbitrator

10/31/03
 Signature Date