

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Paul J. Marshall

Case Number: 02-07609

Name of the Respondent
Robert W. Baird & Co., Inc.

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

For Paul J. Marshall, hereinafter referred to as "Claimant": Frank A. Lightmas, Jr., Esq., Lightmas & Delk, Atlanta, Georgia.

For Robert W. Baird & Co., Inc., hereinafter referred to as "Respondent": Ruth I Major, Esq. and Christopher Barber, Esq., Gardner Carton & Douglas, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: December 13, 2002.

Claimant's Reply to Respondent's Counterclaim filed on or about: March 3, 2003.

Claimant signed the Uniform Submission Agreement: August 30, 2002.

Answer, Affirmative Defenses and Counterclaim of Respondent/Counterclaimant Robert W. Baird & Co., Inc. filed on or about: February 17, 2003.

Respondent signed the Uniform Submission Agreement: January 13, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: fraud; breach of contract (express or implied); refusal to honor the terms of the agreement under which Claimant joined Respondent; intentional or negligent infliction of emotional distress; wrongful termination; conversion; breach of fiduciary duty; unlawful and impermissible forfeiture under Georgia law (unjust enrichment); violation of the covenant of good faith and fair dealing; and, breaches, misrepresentations and omissions. The causes of action relate to the termination of Claimant by Respondent.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In addition, in its counterclaim, Respondent asserted the following causes of action: breach of contract; constructive trust; breach of employment contract and indemnity; and, conversion.

Unless specifically admitted in his Reply to Counterclaim, Claimant denied the allegations made in the Counterclaim and asserted various defenses.

RELIEF REQUESTED

Claimant requested actual, general and compensatory damages of \$750,000.00, pre-award and post-award interest; punitive damages in an amount to be determined by the arbitration panel; that the arbitration panel release Claimant from any claim that Respondent might have against him for contribution or indemnity; attorneys' fees and litigation expenses; and such other and further relief as the arbitration panel deemed just and equitable. In addition, Claimant requested that Respondent's counterclaim be denied.

Respondent requested entry of an award granting judgment in its favor. In addition, in its counterclaim, Respondent requested the following relief: the sum of \$70,493.39 plus accrued interest and the reasonable attorneys' fees and legal expenses associated with collecting said amount pursuant to a promissory note executed by Claimant; reimbursement of two annuity prepayments of \$7,170.05 and \$5,258.21 and WRAP account fees of \$1,596.42; reimbursement of the sum of \$24,500.00, the amount paid by Respondent to settle a customer complaint (the "Art Walsh claim"); the return to Respondent of client files and any resulting damages; any additional amounts found due to Respondent by Claimant; all costs and attorneys' fees incurred; and any other relief the panel deemed just and necessary.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the pre-hearing briefs, the undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable and shall pay to Claimant compensatory damages as follows:

The sum of \$248,800.00 was deposited into Claimant's Deferred Compensation Plan with Respondent. This sum had increased by \$122,028.17 by the date of Claimant's termination by Respondent. Although Claimant failed to remain employed with Respondent for five (5) years as required by the Plan in order to have access to these funds, the Panel finds that it would result in unjust enrichment to Respondent if it were allowed to retain all monies generated by the growth of the Plan.

Therefore, Claimant should recover one-half (1/2) of the growth of the Plan in the amount of \$61,014.08. \$61,014.08

Proceeds from the sale by Respondent of 2250 shares Baird stock, 1000 shares Baird Holding Company stock and value of Baird Capital Partners - {\$85,425.00 less bank loan payoff of \$81,376.24 (made by Respondent)}. 4,048.76

Recruitment Bonus - Atlanta 25,000.00

Recruitment Bonus - Nashville 0.00

Branch Manager Year-end Bonus (stipulated) 8,430.00

Expense Reimbursement 0.00

Total	\$98,492.84
Less counterclaim (see below)	14,024.68
Total Net	<u>\$84,468.16</u>

Interest at the post-judgment legal rate in Georgia shall begin to accrue on the sum of \$84,468.16 thirty days after the date of this Award and shall continue to accrue until the date of payment of the Award.

Claimant is liable on the counterclaim and shall pay to Respondent compensatory damages of \$14,024.68 consisting of the stipulated amounts of WRAP fee (\$1,596.42) and Annuity pre-payments of \$7,170.05 and \$5,258.21. These amounts were agreed to between the parties.

The Panel finds against Respondent on its claim for indemnification of the Art Walsh claim.

The Panel finds against Respondent on its claim for recovery of the balance of the promissory note dated August 4, 1998. The Panel concluded that Claimant's termination was not "for cause" and the balance of the promissory note was, therefore, not due to Respondent. Furthermore, the Panel finds that that promissory note was released by Respondent as evidenced by Respondent's issuance of a 1099 for the tax year 2002 to Claimant and Claimant's payment of the tax due on the amount of the 1099.

The Panel finds against Respondent on its claim of conversion of original client files. To the extent that Claimant was permitted to copy files (and did so), he shall make copies of such files available to Respondent at its expense for the purpose of Respondent defending itself with respect to any claims and/or complying with any regulations. The Panel specifically finds that there was

no evidence presented that proved or tended to prove that Claimant removed or even attempted to remove any client files.

All claims for attorneys' fees and punitive damages are denied.

Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$375.00
Counterclaim filing fee	= \$1,000.00

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 is a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

January 27, 28 and 29, 2004 Hearing Dates, adjournment by Respondent = \$1,200.00

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 Pre-hearing session with the Panel @ \$1,200.00	= \$1,200.00
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Pre-hearing conference:	May 29, 2003	1 session	
Seven Hearing sessions @ \$1,200.00			= \$8,400.00
Hearing Dates:	February 18, 2004	2 sessions	
	February 19, 2004	3 sessions	
	February 20, 2004	2 sessions	
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Total Forum Fees			= \$9,600.00

The Panel has assessed the total forum fees of \$9,600.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred in this matter.

FEE SUMMARY

Claimant is solely liable for:

Initial Filing Fee	= \$375.00
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Total Fees	= \$375.00
Less payments	= \$375.00
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Balance Due NASD Dispute Resolution	= \$0.00

Respondent is solely liable for:

Filing Fee	= \$1,000.00
Member Fees	= \$7,000.00
Adjournment Fee	= \$1,200.00
Forum Fees	= \$9,600.00
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Total Fees	= \$18,800.00
Less payments	= \$10,250.00
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Balance Due NASD Dispute Resolution	= \$8,550.00

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

ARBITRATION PANEL

Victor L. Hayslip, J.D.	-	Public Arbitrator, Presiding Chair
Joe E. Manuel, Esq.	-	Public Arbitrator
James H. Bradford	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
Victor L. Hayslip, J.D.
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
Joe E. Manuel, Esq.
Public Arbitrator

Signature Date

_____/S/_____
James H. Bradford
Non-Public Arbitrator

Signature Date

March 16, 2004
Date of Service (For NASD Dispute Resolution office use only)

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Victor L. Hayslip, J.D. .
Joe E. Manuel, Esq. .
James H. Bradford .

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures


Victor L. Hayslip, J.D.
Public Arbitrator, Presiding Chair

3/15/04
Signature Date

Joe E. Manuel, Esq.
Public Arbitrator

Signature Date

James H. Bradford
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

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Joe E. Manuel, Esq. -
James H. Bradford -

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

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Public Arbitrator, Presiding Chair

Signature Date


Joe E. Manuel, Esq.
Public Arbitrator

3-15-04
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James H. Bradford
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Non-Public Arbitrator

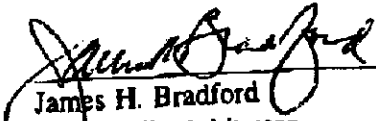
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Victor L. Hayslip, J.D.
Public Arbitrator, Presiding Chair

Signature Date

Joe E. Manuel, Esq.
Public Arbitrator

Signature Date


James H. Bradford
Non-Public Arbitrator

March 15, 2004
Signature Date

Date of Service (For NASD Dispute Resolution office use only)