

**AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Robert W. Baird & Co., Inc.

and

Case Number: 03-00978  
Hearing Site: Detroit, Michigan

Name of Respondent

Michael A. Marcum

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**REPRESENTATION OF PARTIES**

Robert W. Baird & Co., Inc. ("Claimant") was represented by Moira K. Moran, Esq., and Brian D. Trexell, Esq., Robert W. Baird & Co, Inc., Milwaukee, Wisconsin.

Michael A. Marcum ("Respondent") did not appear.

**CASE INFORMATION**

The Statement of Claim was filed on or about February 7, 2003. The Submission Agreement of Claimant Robert W. Baird & Co., Inc. was signed on or about January 31, 2003, by Moira K. Moran.

No Statement of Answer or Submission Agreement was filed by Respondent Michael A. Marcum.

**CASE SUMMARY**

Claimant asserted that Respondent failed to repay the balance of a forgivable loan due under the terms of the Promissory Note dated May 8, 2001 ("Promissory Note").

**RELIEF REQUESTED**

Claimant requested an award in the amount of \$123,460.84, interest, costs, attorney fees, expenses, and any further relief the Panel deems appropriate.

**OTHER ISSUES CONSIDERED & DECIDED**

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Michael A. Marcum has been properly served with the Statement of Claim pursuant to Rule 10302 and Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Michael A. Marcum had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

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Respondent Michael A. Marcum did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is 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 is bound by the determination of the arbitration panel on all issues submitted.

After the initial pre-hearing conference with the full Panel, on or about July 31, 2003, Claimant requested that this matter proceed under the Default Procedures as defined in Rule 10314(e) of the Code. Pursuant to the aforementioned Rule, NASD appointed the existing Chairperson as the sole arbitrator in this matter.

### **AWARD**

After considering the pleadings, and the evidence of service presented, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondent, Michael A. Marcum, is liable for and shall pay to Claimant, Robert W. Baird & Co., Inc., the sum of \$123,460.84 in damages;
- 2.) Respondent, Michael A. Marcum, is for and shall pay to Claimant, Robert W. Baird & Co., Inc., interest pursuant to the terms of the Promissory Note from and including September 3, 2001, until paid in full;
- 3.) Respondent, Michael A. Marcum, is for and shall pay to Claimant, Robert W. Baird & Co., Inc., the sum of \$1,500.00 in attorneys fees pursuant to the terms of the Promissory Note;
- 4.) Respondent, Michael A. Marcum, is for and shall pay to Claimant, Robert W. Baird & Co., Inc., the sum of \$1,000.00 as reimbursement for fees retained by NASD pursuant to the terms of the Promissory Note;
- 5.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 6.) 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

= \$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 that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is Robert W. Baird & Co., 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, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with full panel x \$1,125.00	= \$1,125.00
Pre-hearing conference: July 8, 2003 1 session	
Paper Decision Fee by single arbitrator x \$1,125.00	= \$ 300.00
Total Forum Fees	= \$1,425.00

The Arbitration Panel has assessed \$1,425 of the forum fees to Claimant.

### Fee Summary

Claimant, Robert W. Baird & Co., Inc., is liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 5,200.00
Forum Fees	= \$ 1,425.00
Total Fees	= \$ 7,625.00
Less payments	= \$ 7,325.00
Balance Due NASD Dispute Resolution	= \$ 300.00

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

### ARBITRATION PANEL

Bruce F. Coleman - Non-Public Arbitrator, Presiding Chair

Arbitrator's Signature:

/s/ Bruce F. Coleman  
Bruce F. Coleman  
Public Arbitrator, Presiding Chair

09/24/03  
Signature Date

09/24/03  
Date of Service (For NASD office use only)

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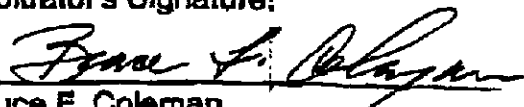
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