

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Claimant

Kathleen A. McLarn

v.

03-01108

Minneapolis, Minnesota

Respondents

RBC Dain Rauscher, Inc. and Cinda J. Collins

Nature of Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Kathleen A. McLarn ("**Claimant**") was represented by Paul M. Floyd, Esq., of Wallen Friedman & Floyd, P.A., Minneapolis, Minnesota.

RBC Dain Rauscher, Inc. ("**RBC**") and Cinda J. Collins ("**Collins**"), hereinafter referred to as ("**Respondents**"), were represented by Jonathan M. Harris, Esq., of Lindquist & Vennum, Minneapolis, Minnesota.

CASE INFORMATION

The Statement of Claim was filed on or about February 12, 2003. Submission Agreement of Claimant was signed on or about February 10, 2003.

A Joint Statement of Answer was filed by Respondents RBC Dain Rauscher, Inc. and Cinda J. Collins on or about May 12, 2003. Submission Agreement of Respondent RBC Dain Rauscher, Inc. was signed on or about March 7, 2003. Submission Agreement of Respondent Cinda J. Collins was signed on or about May 27, 2003.

CASE SUMMARY

Claimant asserted causes of action including the following: violation of the Minnesota Securities Act, breach of fiduciary duty, negligence, and respondeat superior. The causes of action related to Claimant's allegation that Respondents ignored her investment objective of preservation of capital and invested her in various high-tech and telecommunication stocks, which according to Claimant, were outside of her risk tolerance and caused losses in her account.

Respondents denied the allegations set forth in the Statement of Claim and asserted affirmative defenses including the following: Claimant failed to state a claim upon which relief can be granted;

Claimant failed to mitigate against losses, and should bear the consequence for her failure to take timely and appropriate steps to avoid them; Claimant knew the risks associated with the transactions, at issue, and she knowingly, willingly and voluntarily assumed the risks associated with investing in the stock market, and retaining shares of high-tech and telecommunication companies; and Claimant is precluded from recovery since the losses sustained by her were the direct and proximate result of market events outside of the control of Respondents.

RELIEF REQUESTED

Claimant requested an award in the amount of \$125,000 in compensatory damages, plus, interest, costs, attorney's fees, and any other relief that 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 this matter be expunged from Respondent Collins' permanent registration record maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED & DECIDED

At the arbitration hearing, all parties accepted 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. Claimant's claims, each and all, are hereby denied and dismissed with prejudice;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Cinda J. Collins' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Cinda J. Collins must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

3. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto, including punitive damages, 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 = \$ 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 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 = \$ 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:

One (1) Pre-hearing session with Panel x \$ 1,125.00 = \$ 1,125.00

Pre-hearing conference: 08/19/2003 1 session

Four (4) Hearing sessions with Panel x \$ 1,125.00 = \$ 4,500.00

Hearing Dates: 03/01/2004 2 sessions
03/02/2004 2 sessions

Total Forum Fees = \$ 5,625.00

The Arbitration Panel has assessed \$ 2,812.50 of the forum fees to Kathleen A. McLarn

The Arbitration Panel has assessed \$ 2,812.50 of the forum fees jointly and severally to RBC Dain Rauscher, Inc. and Cinda J. Collins.

Fee Summary

Claimant, Kathleen A. McLarn, is liable for:

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

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

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, RBC Dain Rauscher, Inc. and Cinda J. Collins, are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 2,812.50
Total Fees	= \$ 2,812.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,812.50

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

ARBITRATION PANEL

Clair N. McRostie, Ph.D - Public Arbitrator, Presiding Chair
Frank E. Harvey - Non -Public Arbitrator
Paul J. Bordonaro, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

Clair N. McRostie, Ph.D
Public Arbitrator, Presiding Chair

Signature Date

Frank E. Harvey
Non-Public Arbitrator

Signature Date

Paul J. Bordonaro, Esq.
Non-Public Arbitrator

Signature Date

2/23/04
Date of Service (NASD use only)

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Clair N. McRostie, Ph.D
Public Arbitrator, Presiding Chair

3-19-04
Signature Date

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

Signature Date

Paul J. Bordonaro, Esq.
Paul J. Bordonaro, Esq.
Non-Public Arbitrator

Signature Date

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Non-Public Arbitrator

03-19-04

Signature Date

2/23/04

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