

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Lloyd Rudy, Jr., M.D, on behalf of the Lloyd Rudy, Jr. Rollover IRA, Claimant v. John G. Woodhead, Sr., Phelps & Woodhead Investments, and D.A. Davidson & Co., Respondents

Case Number: 03-01366

Hearing Site: Seattle, Washington

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Nature of the Dispute: Customer v. Members and Associated Person

**REPRESENTATION OF PARTIES**

For Claimant:

Maris Baltins, Esq.  
Winston & Cashatt  
Spokane, Washington

For Respondents:

Curt Roy Hine, Esq.  
Bridgette Helms, Esq.  
Dorsey & Whitney LLP  
Seattle, Washington

**CASE INFORMATION**

Statement of Claim filed: February 18, 2003

Claimant's Uniform Submission Agreement signed: February 11, 2003

Joint Initial Statement of Answer filed by Respondents: June 5, 2003

Joint Amended Statement of Answer filed by Respondents: August 6, 2003

Respondent D.A. Davidson & Co.'s Uniform Submission Agreement signed: July 31, 2003

Respondent John G. Woodhead, Sr.'s Uniform Submission Agreement signed: August 1, 2003

### **CASE SUMMARY**

Claimant alleged breach of contract, breach of fiduciary duty, unsuitability, unauthorized trading, misrepresentation, non-disclosure, negligence, and failure to supervise. Claimant's allegations concerned transactions in unspecified "junk" bonds and technology stocks, including but not limited to WorldCom, Global Crossing, and Intel.

Respondents' Initial Statement of Answer denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses. On August 6, 2003, Respondents filed a Joint Amended Statement Answer pursuant to the NASD Code of Arbitration Procedure Rule 10328(a). Respondents' Amended Statement of Answer also denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimant requested actual damages of \$1,000,000.00, interest at a rate of 12% per annum, and costs, including attorney's fees.

Respondents' Initial and Amended Statements of Answer requested dismissal of the Claimant's Statement of Claim in its entirety and the expungement of all reference to the above captioned arbitration from John G. Woodhead, Sr.'s registration records maintained by the NASD Central Registration Depository.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Phelps & Woodhead Investments did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and, having answered the claim, is bound by the determination of the Panel on all issues submitted.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

**AWARD**

After considering the pleadings, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The Parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code of Arbitration Procedure (the "Code"), the following fees are assessed:

#### **Filing Fees**

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 375.00
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#### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm D.A. Davidson & Co. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 4,000.00
<b>Total Member Fees</b>	<b>= \$ 7,000.00</b>

#### **Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: November 24, 2002 1 session	
Eight (8) Hearing sessions with the Panel @ \$ 1,200.00/session	= \$ 9,600.00
Hearings: July 6, 2004 2 sessions	
July 7, 2004 2 sessions	
July 8, 2004 2 sessions	
July 15, 2004 2 sessions	
<b>Total Forum Fees</b>	<b>= \$10,800.00</b>

1. The Panel assessed \$5,400.00 of the forum fees to Respondent John G. Woodhead, Sr.
2. The Panel assessed \$5,400.00 of the forum fees to Respondent D.A. Davidson & Co.

**Administrative Costs**

Administrative costs are expenses incurred because a party requested additional services beyond the normal administrative services. These additional services include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, security, and sundry other requests.

Respondent D.A. Davidson & Co. requested 54 photocopies @ \$0.50      = \$      27.00

**Fee Summary**

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$      375.00
Less payments	= \$ (1,575.00)
<b>Refund Due from NASD Dispute Resolution</b>	<b>= \$ (1,200.00)</b>

2. Respondent D.A. Davidson & Co. is charged with the following fees and costs:

Member Fees	= \$    7,000.00
Forum Fees	= \$    5,400.00
Administrative Costs	= \$      27.00
<b>Total Fees</b>	<b>= \$12,427.00</b>
Less payments	= \$ (7,000.00)
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$    5,427.00</b>

3. Respondent John G. Woodhead, Sr. is charged with the following fees and costs:

Forum Fees	= \$    5,400.00
Less payments	= \$      0.00
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$    5,400.00</b>

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

**ARBITRATION PANEL**

<b><i>Eric A. Chiappinelli</i></b>	-	<b><i>Public Arbitrator, Presiding Chair</i></b>
<b><i>Thomas R. Dreiling, Esq.</i></b>	-	<b><i>Public Arbitrator</i></b>
<b><i>Thomas L. Reveley</i></b>	-	<b><i>Non-Public Arbitrator</i></b>



Eric A. Chiappinelli  
Chair, Public Arbitrator



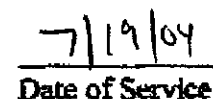
Signature Date

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Thomas R. Dreiling, Esq.  
Public Arbitrator

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Signature Date

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Thomas L. Reveley  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date



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Date of Service

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***Eric A. Chiappinelli***  
***Thomas R. Dreiling, Esq.***  
***Thomas L. Reveley***

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***Public Arbitrator, Presiding Chair***  
***Public Arbitrator***  
***Non-Public Arbitrator***

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Eric A. Chiappinelli  
Chair, Public Arbitrator

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Signature Date

  
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Thomas R. Dreiling, Esq.  
Public Arbitrator

7/19/04  
\_\_\_\_\_  
Signature Date

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Thomas L. Reveley  
Non-Public Arbitrator

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Signature Date

7/19/04  
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*Thomas R. Dreiling, Esq.*

*Thomas L. Reveley*

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*Public Arbitrator, Presiding Chair*

*Public Arbitrator*

*Non-Public Arbitrator*

Eric A. Chiappinelli  
Chair, Public Arbitrator

Signature Date

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Public Arbitrator

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Thomas L. Reveley  
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