

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Matthew W. Hurlburt

and

03-02987
Milwaukee, Wisconsin

Names of Respondents

Tom F. Schmid and Robert W. Baird & Co. Incorporated

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

REPRESENTATION OF PARTIES

Claimant, Matthew W. Hurlburt, ("Claimant"), or, ("Hurlburt") was represented by David J. Lang of Brookfield, Wisconsin.

Respondents Tom F. Schmid, ("Schmid"), and Robert W. Baird & Co., Incorporated ("RWB"), or ("Respondents") were represented by Gregory G. Wille, Esq. of Wille, Gregory & Lundeen, located in Milwaukee, Wisconsin.

CASE INFORMATION

Claimant filed the Statement of Claim on or about April 23, 2003. Claimant signed the Uniform Submission Agreement on May 30, 2003.

Respondents RWB and Schmid filed a Joint Answer to the Statement of Claim on June 20, 2003. RWB signed the Uniform Submission Agreement on May 8, 2003. Schmid signed the Uniform Submission Agreement on May 12, 2003.

CASE SUMMARY

Claimant alleged as follows: Respondents Schmid and RWB were negligent and breached a contract with Claimant when they failed to sell or reverse his position on certain stocks in his account. Claimant's causes of action relate to PD11 and Erickson shares of stock. As a result of Respondents failure to follow instructions, Claimant suffered monetary loss and emotional distress.

Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated as follows: any loss sustained by the Claimant was the direct result and proximate cause of Mr. Hurlburt's own investment choices; Claimant's claims are barred on the ground that they failed to object within ten days of the receipt of the monthly account statements; the Claimant is estopped

from asserting claims against RWB on the ground that they never objected or complained to RWB that Mr. Hubert's directions were not being properly followed or executed until substantially after the fact; any investment losses incurred by the Claimant were the direct result of Claimant's own contributory negligence, including failure to review account statements.

RELIEF REQUESTED

Claimant requested an award in the amount of \$52,522.60 in actual damages. Claimant requested an award of punitive damages in the amount of \$30,000.00. Claimant also requests pre-judgment or post-judgment interest, together with costs, disbursements and attorney fees.

Respondents requested that the claims asserted against them be denied in their entirety and that the claimant pay all costs and forum fees.

OTHER ISSUES CONSIDERED & DECIDED

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 remains on file with the 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 Matthew W. Hurlburt's claims against Respondents Tom F. Schmid and Robert W. Baird & Co., Incorporated are dismissed in their entirety with prejudice;
2. 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; and,
3. 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, not specifically awarded or otherwise provided for above.

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 = \$225.00

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 event giving rise to the dispute. In this matter, the member firm is Robert W. Baird & Co., Incorporated.

Member surcharge	\$	1,100.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	1,700.00
Total Member Fees	\$	<u>3,550.00</u>

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 arbitrators, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

1 Pre-hearing session with Panel	x	750.00	\$	750.00
January 14, 2004	1	session		
2 Hearing sessions	x	750.00	\$	1,500.00
August 3, 2004	2	sessions		
Total Forum Fees			\$	<u>2,250.00</u>

The Arbitration Panel has assessed \$1,125.00 of the forum fees to Claimant Matthew W. Hurlburt. The Arbitration Panel has assessed \$1,125.00 of the forum fees to Respondents Tom F. Schmid and Robert W. Baird and Co. Incorporated.

FEE SUMMARY

Claimant Matthew W. Hurlburt shall be and hereby is liable for:

Initial Filing Fee	= \$	225.00
<u>Forum Fees</u>	= \$	1,125.00
Total Fees	= \$	1,350.00
<u>Less payments</u>	= \$	-975.00
Balance Due NASD Dispute Resolution	= \$	375.00

Respondents Robert W. Baird & Co., Incorporated and Tom F. Schmid are jointly and severally is liable for:

Forum Fees	= \$	1,125.00
Total Fees	= \$	1,125.00
<u>Less payments</u>	= \$	0.00
		1,125.00

Respondent Robert W. Baird & Co., Inc., shall be and hereby is liable for:

Member Fees	= \$	3,550.00
Total Fees	= \$	3,550.00
<u>Less payments</u>	= \$	3,550.00
Balance Due NASD Dispute Resolution	= \$	0.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

George R. Fleischli, Esq. - Public Arbitrator, Presiding Chair
Herbert S. Channick, Esq. - Public Arbitrator
Robert F. O'Keef - Non-Public Arbitrator

Concurring Arbitrators:

George R. Fleischli, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Herbert S. Channick, Esq.
Public Arbitrator

Signature Date

Robert F. O'Keef
Non-Public Arbitrator

Signature Date

Date of service _____

NASD Dispute Resolution
Arbitration No. 03-02987
Award Page 3 of 5

Concurring Arbitrators:

George R. Fleisch
George R. Fleisch, Esq.
Public Arbitrator, Presiding Chair

September 1, 2004
Signature Date

Herbert S. Channick, Esq.
Public Arbitrator

Signature Date

Robert F. O'Keef
Non-Public Arbitrator

Signature Date

Date of service

9/1/04

NASD Dispute Resolution
Arbitration No. 03-02987
Award Page 5 of 5

Concurring Arbitrators:

George R. Fleischli, Esq.
Public Arbitrator, Presiding Chair

Herbert S. Chaunnick
Herbert S. Chaunnick, Esq.
Public Arbitrator

Signature Date

Sept. 1, 2004
Signature Date

Robert F. O'Keef
Non-Public Arbitrator

Signature Date

Date of service: _____

NASD Dispute Resolution
Arbitration No. 03-02987
Award Page 5 of 5

Concurring Arbitrators:

George R. Fleischli, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Herbert S. Charnick, Esq.
Public Arbitrator

Signature Date

Robert F. O'Keef
Non-Public Arbitrator

Signature Date

Date of service