

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Thomas Rapisarda and Barbara Kathleen Rapisarda aka Barbara Contreras, Claimants v. RBC
Dain Rauscher Inc. and Frank Orlando, Respondents

Case Number: 03-03036

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimants:

Steven P. Chang, Esq.
Wild Chang, Esq.
Wild Chang & Chang
City of Industry, California

For Respondents:

Kevin Lewis, Esq.
Howard Rice Nemerovski Canady Falk & Rabkin
San Francisco, California

CASE INFORMATION

Statement of Claim filed: April 21, 2003

Claimants' Joint Uniform Submission Agreement signed: April 15, 2003

Statement of Answer filed by Respondent Frank Orlando: June 20, 2003

Statement of Answer filed by Respondent RBC Dain Rauscher Inc.: July 9, 2003

Respondent RBC Dain Rauscher Inc.'s Uniform Submission Agreement signed: May 12, 2003

CASE SUMMARY

Claimants alleged breach of contract, negligence, failure to supervise, misrepresentations, unauthorized trading, omission of facts, churning, unauthorized use of margin, and unsuitability, involving unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested \$100,000.00 in compensatory damages, \$100,000.00 in punitive damages, unspecified interest, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, and costs.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Frank Orlando 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, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On November 24, 2003, NASD received notice that Respondent Frank Orlando joined in the Answer to the Statement of Claim filed by Respondent RBC Dain Rauscher Inc., including all affirmative defenses.

On April 16, 2003, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimants shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

On June 21, 2004, Claimants filed a Motion to Dismiss the Case Without Prejudice. Respondents opposed this motion at the evidentiary hearing on June 22, 2004. After due deliberation, the Panel denied Claimants' motion.

Also at the evidentiary hearing, Respondents brought a Motion to Preclude Evidence. Claimants opposed this motion. After due deliberation, the Panel denied Respondents' motion.

Claimants' attorney, Wild Chang, Esq., is not licensed to practice law in the state of California. At the evidentiary hearing, Respondents orally gave a conditional waiver to allow representation by Wild Chang, Esq.

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) Respondents are jointly and severally liable to and shall pay Claimants the sum of \$44,000.00 in compensatory damages.
- 2) Respondents are jointly and severally liable to and shall pay Claimants interest in the amount of \$17,600.00, which is 10% per annum on \$44,000.00 from June 23, 2000 to June 23, 2004.
- 3) Respondents are jointly and severally liable to and shall pay Claimants the sum of \$2,700.00 in costs.
- 4) Except as noted above, the parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

FEES

Pursuant to 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	= \$ 300.00
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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 RBC Dain Rauscher Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

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 Panel. The following fees are assessed:

2 Pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing conferences: November 20, 2003 1 session	
June 18, 2004 1 session	
4 Hearing sessions @ \$1,125.00/session	= \$ 4,500.00
Hearings: June 22, 2004 2 sessions	
June 23, 2004 2 sessions	
Total Forum Fees	= \$ 6,750.00

The Panel assessed \$ 6,750.00 of the forum fees jointly and severally to Respondents.

Fee Summary

- Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 300.00
<u>Less payments</u>	= \$(1,425.00)
Refund Due Claimants	= \$(1,125.00)
- Respondent RBC Dain Rauscher Inc. is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
<u>Less payments</u>	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 0.00
- Respondents are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 6,750.00
<u>Less payments</u>	= \$(0.00)
Balance Due NASD Dispute Resolution	= \$ 6,750.00

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.

NASD Dispute Resolution

Arbitration No. 03-03036

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ARBITRATION PANEL

Stephen Michael Biersmith, JD ..

Public Arbitrator, Presiding Chair

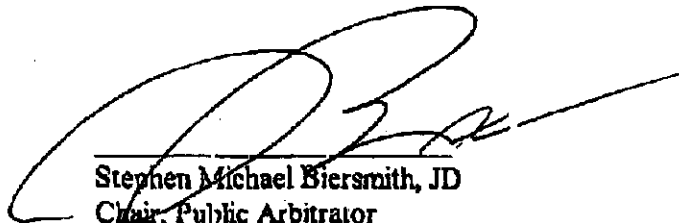
Frank L. Wolf ..

Public Arbitrator

Charles A. Graham ..

Non-Public Arbitrator

Concurring Arbitrators' Signatures



Stephen Michael Biersmith, JD
Chair, Public Arbitrator

6/24/04
Signature Date

Frank L. Wolf
Public Arbitrator

Signature Date

Charles A. Graham
Non-Public Arbitrator

Signature Date

6/24/04
Date of Service


ARBITRATION PANEL

Stephen Michael Biersmith, JD	-	Public Arbitrator, Presiding Chair
Frank L. Wolf	-	Public Arbitrator
Charles A. Graham	-	Non-Public Arbitrator

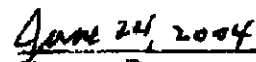
Concurring Arbitrators' Signatures

Stephen Michael Biersmith, JD
Chair, Public Arbitrator

Signature Date



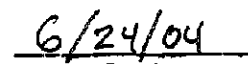
Frank L. Wolf
Public Arbitrator



Signature Date

Charles A. Graham
Non-Public Arbitrator

Signature Date



Date of Service

ARBITRATION PANEL

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Frank L. Wolf	-	Public Arbitrator
Charles A. Graham	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Stephen Michael Biersmith, JD
Chair, Public Arbitrator

Signature Date

Frank L. Wolf
Public Arbitrator

Signature Date



Charles A. Graham
Non-Public Arbitrator

6-25-04

Signature Date

6-25-04

Date of Service