

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

H. Deworth Williams and Edward F. Cowle, Claimants v. RBC Dain Rauscher, Inc., Respondent

Case Number: 03-03720

Hearing Site: Salt Lake City, Utah

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

Richard J. Leedy, Esq.
Stephen L. Taylor, Esq.
Attorneys at Law
Salt Lake City, Utah

For Respondent:

Sharon J. Shumway, Esq.
Carrington, Coleman, Sloman &
Blumenthal
Dallas, Texas

CASE INFORMATION

Statement of Claim received: May 21, 2003

Claimants' Joint Uniform Submission Agreement signed: May 13, 2003

Statement of Answer filed by Respondent: August 5, 2003

Respondent's Uniform Submission Agreement signed: June 23, 2003

CASE SUMMARY

In their Statement of Claim, Claimants alleged negligence and unsuitability involving their investments in Speedlane.Com, Inc., CoVia Technologies, Inc. Series E Preferred Stock and Tamir Fishman Ventures Limited Partnership.

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

RELIEF REQUESTED

Claimants requested the return of their initial investment of \$450,000.00 each, that they be indemnified and held harmless from calls on the additional \$800,000.00 each of Tamir Fishman Ventures, interest and costs, including attorney's fees.

Respondent requested dismissal of the Claimants' Statement of Claim in its entirety, reimbursement of its filing fees and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 7, 2005, Respondent moved the Chair of the Arbitration Panel for an order imposing sanctions on Claimants for failure to comply with the Chair's Discovery Order dated April 6, 2004. The Chair of the Arbitration Panel issued an order reserving the ruling on the request for sanctions until the evidentiary hearing. At the hearing, the Panel denied the motion for sanctions.

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

FINDINGS AND CONCLUSIONS

Claimants' sole claim was an allegation that Respondent violated NASD suitability standards by permitting each claimant to invest in two private placements. The Panel finds that the two investments were, in fact, suitable for each claimant.

AWARD

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

- 1) Claimants' 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 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 RBC Dain Raucher, Inc. 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>	<u>= \$ 4,000.00</u>
Total Member Fees	= \$ 7,000.00

Adjournment Fees

The following adjournment fees are assessed:

March 24-26, 2005, joint request for adjournment	= \$ 1,200.00
The Panel assessed \$600.00 of the adjournment fees jointly and severally to Claimants and \$600.00 to Respondent	

June 29, 2005- July 1, 2005, adjournment requested by Claimants	= \$ 1,200.00
The Panel assessed the entire adjournment fee jointly and severally to Claimants.	

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:

(2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences: October 23, 2003	1 session
June 7, 2004	1 session

(7) Hearing sessions @ \$1,200.00/session	= \$ 8,400.00
Hearings: June 7, 2005	2 sessions
June 8, 2005	2 sessions
June 9, 2005	2 sessions
June 10, 2005	1 session

Total Forum Fees	= \$ 10,800.00
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1. The Panel assessed \$5,400.00 of the forum fees jointly and severally to Claimants.
2. The Panel assessed \$5,400.00 of the forum fees to Respondent RBC Dain Rauscher, Inc.

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.

Claimants requested 72 copies @ .50 cents per page:	= \$ 36.00
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Fee Summary

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

Initial Filing Fee	= \$ 375.00
Adjournment Fee	= \$ 1,800.00
Forum Fees	= \$ 5,400.00
Administrative Costs	= \$ 36.00
Total Fees	= \$ 7,611.00
<u>Less payments</u>	= \$(3,411.00)
Balance Due NASD Dispute Resolution	= \$ 4,200.00

2. Respondent is charged with the following fees and costs:

Member Fees	= \$ 7,000.00
Adjournment Fee	= \$ 600.00
Forum Fees	= \$ 5,400.00
Total Fees	= \$13,000.00
<u>Less payments</u>	= \$(7,600.00)
Balance Due NASD Dispute Resolution	= \$ 5,400.00

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.

ARBITRATION PANEL

Eugene R. Nielson	-	Public Arbitrator, Presiding Chair
John G. Manley	-	Public Arbitrator
Clifford N. Coury	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Eugene R. Nielson
Chair, Public Arbitrator

June 20, 2005
Signature Date

John G. Manley
Public Arbitrator

Signature Date

Clifford N. Coury
Non-Public Arbitrator

Signature Date

6/20/05
Date of Service

ARBITRATION PANEL

Eugene R. Nielson
John G. Manley
Clifford N. Coury

-
-
-

Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

Eugene R. Nielson
Chair, Public Arbitrator

Signature Date


John G. Manley
Public Arbitrator

6-24-05
Signature Date

Clifford N. Coury
Non-Public Arbitrator

Signature Date

6/20/05
Date of Service

ARBITRATION PANEL

Eugene R. Nielson	-	Public Arbitrator, Presiding Chair
John G. Manley	-	Public Arbitrator
Clifford N. Coury	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Eugene R. Nielson
Chair, Public Arbitrator

Signature Date

John G. Manley
Public Arbitrator

Signature Date



Clifford N. Coury
Non-Public Arbitrator

Signature Date

6/20/05
Date of Service