

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Robert W. Baird & Co., Inc. (Claimant) v. Thomas L. Costantiello (Respondent)

Case Number: 03-04748

Hearing Site: Columbus, Ohio

Nature of the Dispute: Member v. Associated Person.

REPRESENTATION OF PARTIES

Claimant Robert W. Baird & Co., Inc. ("Baird") hereinafter referred to as "Claimant":
Moir K. Moran, Esq., Robert W. Baird & Co., Inc., Milwaukee, WI.

Respondent Thomas L. Costantiello ("Costantiello") hereinafter referred to as
"Respondent": Michael J. Anthony, Esq., Anthony Law Offices, LLC, Columbus, OH.

CASE INFORMATION

Statement of Claim filed on or about: June 27, 2003.
Response to Counterclaim filed on or about: September 16, 2003.
Claimant signed the Uniform Submission Agreement: June 25, 2003.

Statement of Answer and Counterclaim filed by Respondent on or about: August 21,
2003.
Respondent signed the Uniform Submission Agreement: August 21, 2003.

CASE SUMMARY

Claimant asserted the following cause of action: failure to repay monies owed in
accordance with the terms of a promissory note. Unless specifically admitted in its
Response to the Counterclaim, Baird denied the allegations made in the Counterclaim.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the
Statement of Claim and asserted various affirmative defenses. In his Counterclaim,
Costantiello asserted the following causes of action: breach of contract; promissory
estoppel; and conversion.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$80,180.00; interest; costs,
including filing fees and reasonable attorneys' fees; and any further relief that the

Arbitration Panel deems appropriate.

In its Response to the Counterclaim, Baird requested that the Panel deny the Counterclaim and award costs, including any forum fees, reasonable attorneys' fees and expenses, as well as any further relief that the Arbitration Panel deems appropriate.

In his Answer, Respondent requested dismissal of Claimant's claim with prejudice; order Baird to forgive the promissory note in full; attorneys' fees; costs; and such other relief as the Court deems just and equitable. In his Counterclaim, Costantiello requested compensatory damages in the amount of \$22,750.00; costs; reasonable attorneys' fees; interest; and such other relief as the Court deems just and equitable.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing in this matter, Claimant increased its request for damages to \$85,650.74.

At the hearing in this matter, Respondent increased his request for damages to \$31,657.85.

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.

AWARD

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

1. Respondent is liable for and shall pay to Claimant \$27,500.00.
2. Any and all relief not specifically addressed herein is denied.

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 | = \$1,000.00 |
| Counterclaim filing fee | = \$ 175.00 |

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. Accordingly, Robert W. Baird & Co., Inc. is a party.

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,100.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$1,700.00 |

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

| | |
|--|-------------|
| One (1) Pre-hearing session with Panel @ \$750.00 | = \$ 750.00 |
| Pre-hearing conference: January 12, 2004 1 session | |

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|---|--------------|
| Four (4) Hearing sessions @ \$750.00 | = \$3,000.00 |
| Hearing Dates: July 26, 2004 3 sessions | |
| July 27, 2004 1 sessions | |

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|------------------|--------------|
| Total Forum Fees | = \$3,750.00 |
|------------------|--------------|

1. The Panel has assessed \$1,875.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,875.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

| | |
|-------------------------------------|---------------------|
| Initial Filing Fee | = \$1,000.00 |
| Member Fees | = \$3,550.00 |
| <u>Forum Fees</u> | <u>= \$1,875.00</u> |
| Total Fees | = \$6,425.00 |
| <u>Less payments</u> | <u>= \$5,300.00</u> |
| Balance Due NASD Dispute Resolution | = \$1,125.00 |

2. Respondent is solely liable for:

| | |
|-------------------------------------|---------------------|
| Filing Fee | = \$ 175.00 |
| <u>Forum Fees</u> | <u>= \$1,875.00</u> |
| Total Fees | = \$2,050.00 |
| <u>Less payments</u> | <u>= \$ 575.00</u> |
| Balance Due NASD Dispute Resolution | = \$1,475.00 |

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

| | | |
|-------------------|---|--|
| Larry P. Larsen | - | Non-Public Arbitrator, Presiding Chairperson |
| Sandra J. Bakalus | - | Non-Public Arbitrator |
| Bryan K. Jacobsen | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument in which is my award.



Larry P. Larsen
Non-Public Arbitrator, Presiding Chairperson

8/10/2004

Signature Date

Sandra J. Bakalus
Non-Public Arbitrator

Signature Date

Bryan K. Jacobsen
Non-Public Arbitrator

Signature Date

August 12, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

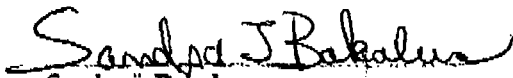
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Non-Public Arbitrator, Presiding Chairperson

Signature Date


Sandra J. Bakalus
Non-Public Arbitrator



Signature Date

Bryan K. Jacobsen
Non-Public Arbitrator

Signature Date

August 12, 2004

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Larry P. Larsen
Non-Public Arbitrator, Presiding Chairperson

Signature Date

Sandra J. Bakalus
Non-Public Arbitrator

Signature Date



Bryan K. Jacobsen
Non-Public Arbitrator

8-6-04

Signature Date

August 12, 2004

Date of Service (For NASD Dispute Resolution use only)