

**Award
NASD Dispute Resolution**

In the Matter of the Arbitration Between:

Name of the Claimant

Dorothy Hanson, Successor Trustee for the
Revocable Living Trust of P.D. Hanson Dtd. 9/9/96

Case Number: 03-05422

Name of the Respondents

Robert W. Baird & Co., Inc. and
NatCity Investments, Inc.

Hearing Site: St. Louis, Missouri

NATURE OF DISPUTE

Customer vs. Member Firms

REPRESENTATION OF PARTIES

Steve W. Koslovsky, Esq. of Maryland Heights, Missouri represented Claimant Dorothy Hanson ("Hanson"), Successor Trustee for the Revocable Living Trust of P.D. Hanson Dtd. 9/9/96, hereinafter referred to as "Claimant."

Michael N. Unger, Esq. and Elizabeth A. Jerdonek, Esq. of the law firm Ulmer & Berne, LLP located in Cleveland, Ohio represented Respondent Robert W. Baird & Co., Inc. ("Baird"), hereinafter referred to as "Respondent Baird."

Miles D. Hart, Esq. of the law firm Hertz, Schram & Saretsky, P.C. located in Bloomfield Hills, Michigan represented Respondent NatCity Investments, Inc. "(NatCity)", hereinafter referred to as "Respondent NatCity."

CASE INFORMATION

Statement of Claim filed on or about July 24, 2003. Claimant Hanson signed the Uniform Submission Agreement on July 22, 2003.

Statement of Answer filed by Respondent Baird on October 24, 2003. Respondent Baird signed the Uniform Submission Agreement on August 1, 2003.

Statement of Answer filed by Respondent NatCity on September 17, 2003. Respondent NatCity did not execute a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, negligence, suitability and failure to supervise. The causes of action relate to various stocks, including Avaya, Lucent and Cisco. It also relates to Unit Investment Trusts such as Van Kampen, NASDAQ Strategies 10, Van Kampen Bandwidth and Telecom and Van Kampen Focus Internet. Claimant asserted that these were high-risk investments and were unsuitable to Claimant's needs and objectives.

Unless specifically admitted in its Answer, Respondent Baird denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Claimant failed to state a claim upon which relief can be granted and facts sufficient to constitute a cause of action;
2. At all times herein, Baird reasonably followed and adhered to all applicable rules of the NASD and NYSE;
3. At all times herein, Baird properly supervised its employees;
4. In discharging its limited duties to Claimant, Baird acted in good faith and exercised at least the degree of care, diligence and skill which ordinarily prudent persons would exercise in similar circumstances and like positions;
5. Claimant's alleged losses were proximately caused, in whole or in part, by Claimant's assumption of the risk and negligent conduct, acts and/or omissions;
6. Claimant's alleged losses were the result of unforeseen market fluctuations;
7. Claimant failed to mitigate and/or minimize her alleged losses and is therefore barred from recovery;
8. Claimant's claims are barred by the doctrines of estoppel, waiver and laches, as well as the applicable statutes of limitations;
9. Claimant's claims are barred because she approved, authorized and ratified each and every transaction in the Account; and
10. Claimant is not entitled to attorneys' fees, statutory interest and/or punitive damages.

Unless specifically admitted in its Answer, Respondent NatCity denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Claimant fails to state a claim upon which relief can be granted;
2. All transactions were suitable for Claimant;
3. No misrepresentations or omissions of material fact were made;
4. Claimant's claims may be barred by the applicable statutes of limitation;
5. Respondent did not owe Claimant fiduciary duties;
6. Respondent complied with the letter and/or spirit of all governing federal and state securities laws, as well as the rules and regulations of the securities industry;
7. Claimant cannot establish transaction causation or loss causation;
8. Claimant is precluded from obtaining exemplary and/or punitive damages;
9. Claimant is not entitled to recovery attorneys' fees;
10. Claimant's claims are barred by the equitable doctrines of ratification, waiver, estoppel and/or laches;
11. Claimant controlled her accounts at all times; and
12. Respondent reserved the right to add additional affirmative defenses or other defenses at any time.

RELIEF REQUESTED

Claimant requested:

Compensatory Damages	\$250,000.00
Punitive Damages	\$250,000.00
Interest	8% per annum
Attorneys' Fees	unspecified
Other Costs	unspecified

Respondent Baird requested dismissal of Claimant's Statement of Claim in its entirety, that judgment be rendered in favor of Respondent Baird and award Baird its costs.

Respondent NatCity requested dismissal of all claims in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent NatCity did not file with NASD Dispute Resolution, a properly executed submission to arbitration 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.

At the hearing of this matter, Respondent Robert W. Baird & Co., Inc. orally moved to dismiss all claims against Respondent Baird and requested for attorneys fees and costs of this arbitration. Respondent NatCity Investments, Inc. also moved to dismiss all claims against NatCity and to dismiss punitive damages sought by the Claimant.

After hearing oral arguments on Respondents' motions to dismiss, the Panel granted Respondent Baird's motion, dismissed all claims against Baird but denied its request for attorney's fees and costs. The Panel denied NatCity's motion to dismiss and denied its motion for dismissal of claims on punitive damages.

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, 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. Any and all claims asserted by Claimant Dorothy Hanson, Successor Trustee for the Revocable Living Trust of P.D. Hanson Dtd. 9/9/96, against Respondent NatCity, are denied.
2. Parties shall bear their own costs, including attorneys' fees, except as specified herein.
3. Any and all relief not specifically addressed herein, including punitive damages, 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	= \$ 300.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Robert W. Baird & Co., Inc. and NatiCity Investments, Inc. are parties and are each assessed the following fees:

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total fees	= \$5,200.00

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 @ \$1,125.00	= \$1,125.00
Pre-hearing conference: March 16, 2004 1 session	

Four (4) Hearing sessions @ \$1,125.00	= \$4,500.00
Hearing Dates: September 13, 2004 2 sessions	
September 14, 2004 2 sessions	

<u>Total Forum Fees</u>	<u>= \$5,625.00</u>
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1. The Panel assessed 35% of the total forum fees in the amount of \$1,968.75 solely to Dorothy Hanson, Successor Trustee of the Revocable Living Trust of P.D. Hanson Dtd. 9/9/96.

2. The Panel assessed 65% of the total forum fees in the amount of \$3,656.25 solely to NatCity Investments, Inc.

FEF SUMMARY

1. Claimant Hanson is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$1,968.75</u>
Total Fees	= \$2,268.75
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 843.75

2. Respondent Robert W. Baird & Co., Inc. is solely liable for:
- | | |
|-------------------------------------|---------------------|
| Member Fees | = \$5,200.00 |
| <u>Less payments</u> | <u>= \$5,200.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |
3. Respondent NatCity Investments, Inc. is solely liable for:
- | | |
|-------------------------------------|---------------------|
| Member Fees | = \$5,200.00 |
| <u>Forum Fees</u> | <u>= \$3,656.25</u> |
| Total Fees | = \$8,856.25 |
| <u>Less payments</u> | <u>= \$5,200.00</u> |
| Balance Due NASD Dispute Resolution | = \$3,656.25 |

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

ARBITRATION PANEL

Albert J. Haller, Esq.	-	Public Arbitrator, Presiding Chairperson
Julius Z. Frager	-	Public Arbitrator
Edwin R. Cohen	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

<u>Albert J. Haller, Esq.</u>	<u>9/21/04</u>
Public Arbitrator, Presiding Chairperson	Signature Date

<u>Julius Z. Frager</u>	<u>9/21/04</u>
Public Arbitrator	Signature Date

<u>Edwin R. Cohen</u>	<u>9/21/04</u>
Non-Public Arbitrator	Signature Date

<u>9/21/04</u>
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No. 03-05422
Award Page 5

2. Respondent Robert W. Baird & Co., Inc. is solely liable for:

Member Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent NatCity Investments, Inc. is solely liable for:

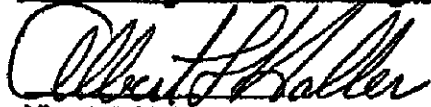
Member Fees	= \$5,200.00
Forum Fees	= \$3,656.25
Total Fees	= \$8,856.25
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$3,656.25

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

ARBITRATION PANEL

Albert J. Haller, Esq.	-	Public Arbitrator, Presiding Chairperson
Julius Z. Frager	-	Public Arbitrator
Edwin R. Cohen	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Albert J. Haller, Esq.
Public Arbitrator, Presiding Chairperson

Sept 21, 2004
Signature Date

Julius Z. Frager
Public Arbitrator

Signature Date

Edwin R. Cohen
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No. 03-05422
Amend Page 5

2. Respondent Robert W. Baird & Co., Inc. is solely liable for:

Member Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent NatCity Investments, Inc. is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$3,656.25
Total Fees	= \$8,856.25
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$3,656.25

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ARBITRATION PANEL

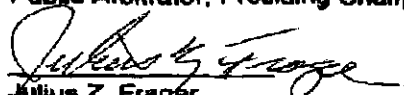
Albert J. Haller, Esq.	-	Public Arbitrator, Presiding Chairperson
Julius Z. Frager	-	Public Arbitrator
Edwin R. Cohen	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Signature Date

Albert J. Haller, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Julius Z. Frager
Public Arbitrator

9/21/04
Signature Date

Edwin R. Cohen
Non-Public Arbitrator

Signature Date

Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution

Arbitration No. 03-05422

Award Page 5

2. Respondent Robert W. Baird & Co., Inc. is solely liable for:

Member Fees	= \$5,200.00
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent NatCity Investments, Inc. is solely liable for:

Member Fees	= \$5,200.00
Forum Fees	= \$3,656.25
Total Fees	= \$8,856.25
Less payments	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$3,656.25

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ARBITRATION PANEL

Albert J. Haller, Esq.	-	Public Arbitrator, Presiding Chairperson
Julius Z. Frager	-	Public Arbitrator
Edwin R. Cohen	-	Non-Public Arbitrator

Consenting Arbitrators' Signatures

 Albert J. Haller, Esq.
 Public Arbitrator, Presiding Chairperson

 Signature Date

 Julius Z. Frager
 Public Arbitrator

 Signature Date


 Edwin R. Cohen
 Non-Public Arbitrator

9-21-04
 Signature Date

 Date of Service (For NASD Dispute Resolution office use only)