

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

RBC Dain Rauscher, Inc., Claimant v. Thomas E. Fife, Respondent

Thomas E. Fife, Counter-Claimant v. RBC Dain Rauscher, Inc., Counter-Respondent

Case Number: 03-06417

Hearing Site: Los Angeles, California

Nature of the Dispute: Member v. Associated Person; Associated Person v. Member

REPRESENTATION OF PARTIES

For Claimant/Counter-Respondent:

Kim Ruckdaschel-Haley, Esq.
Lindquist & Vennum PLLP
Minneapolis, Minnesota

For Respondent/Counter-Claimant:

Joseph Altschule, Esq.
Wilson & Altschule
Visalia, California

CASE INFORMATION

Statement of Claim filed: September 4, 2003

Claimant's Uniform Submission Agreement signed: August 1, 2003

Statement of Answer and Counterclaim filed: October 30, 2003

Respondent's Uniform Submission Agreement signed: October 29, 2003

Statement of Answer to Counterclaim filed: November 12, 2003

CASE SUMMARY

Claimant RBC Dain Rauscher, Inc. alleged default pursuant to the terms of a promissory note.

Respondent Thomas E. Fife denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and filed a Counterclaim alleging breach of contract.

Counter-Respondent RBC Dain Rauscher, Inc. denied the allegations of wrongdoing set forth in the Counterclaim, and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant RBC Dain Rauscher, Inc. requested \$759,674.61 in principal, pre-judgment interest in the amount of at least \$18,453.24, and costs, including attorney's fees.

Respondent/Counter-Claimant Thomas E. Fife requested dismissal of the Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

Counter-Respondent RBC Dain Rauscher, Inc. requested the relief it sought in its Statement of Claim, dismissal of the Counterclaim, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On February 4, 2005, Claimant/Counter-Respondent RBC Dain Rauscher, Inc. moved the Panel to allow telephonic testimony of certain rebuttal witnesses, namely Laurance Poplack, Neal Nakagiri, Thomas Taylor, Lupe Sanchez, and Ruth Vitale.. Respondent/Counter-Claimant Thomas E. Fife filed an opposition thereto on February 4, 2005 and Claimant/Counter-Respondent RBC Dain Rauscher, Inc. filed a reply on February 7, 2005. After due deliberation, the Panel granted the motion with respect to witnesses Taylor, Sanchez and Vitale, and denied the motion with respect to witnesses Poplack and Nakagiri.

On February 9, 2005, Respondent/Counter-Claimant Thomas E. Fife moved the Panel to reconsider its ruling with respect to allowing the telephonic testimony of Respondents Taylor, Sanchez and Vitale. On February 10, 2005, Claimant/Counter-Respondent RBC Dain Rauscher, Inc. opposed Fife's Motion to Reconsider. After due deliberation, the Panel denied the motion.

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) Respondent Thomas E. Fife is liable to and shall pay Claimant RBC Dain Rauscher, Inc. the sum of \$832,876.59 in compensatory damages.
- 2) Respondent Thomas E. Fife is liable to and shall pay Claimant RBC Dain Rauscher, Inc. the sum of \$1,250.00 as reimbursement for RBC Dain Rauscher, Inc.'s filing fee.
- 3) Respondent Thomas E. Fife is liable to and shall pay Claimant RBC Dain Rauscher, Inc. the sum of \$56,737.98 for attorney's fees, pursuant to the terms of the promissory note.
- 4) Counter-Claimant Thomas E. Fife's claims are denied in their entirety and the Counterclaim is dismissed with prejudice.
- 5) With the exception of paragraphs 2 and 3, the parties shall bear their respective costs, including attorney's fees.
- 6) 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	= \$1,250.00
Respondent's Counterclaim	= \$ 250.00

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	= \$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

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:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: June 22, 2004 1 session	
One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: February 23, 2004 1 session	
Four (4) Hearing sessions @ \$1,200.00/session	= \$4,800.00
Hearings: February 15, 2005 2 sessions	
February 16, 2005 2 sessions	
Total Forum Fees	= \$ 6,450.00

The Panel assessed the entire balance of the forum fees, in the amount of \$6,450.00
Respondent/Counter-Claimant Thomas E. Fife.

Fee Summary

1. Claimant/Counter-Respondent RBC Dain Rauscher, Inc. is charged with the following fees and costs:

Initial Filing Fee	= \$ 1,250.00
Member Fees	= \$ 7,000.00
Total Fees	= \$ 8,250.00
Less payments	= \$(10,200.00)
Refund Due from NASD Dispute Resolution	= \$ (1,950.00)

2. Respondent/Counter-Claimant Thomas E. Fife is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 250.00
Forum Fees	= \$ 6,450.00
Total Fees	= \$ 6,700.00
Less payments	= \$ (1,575.00)
Balance Due NASD Dispute Resolution	= \$ 5,125.00

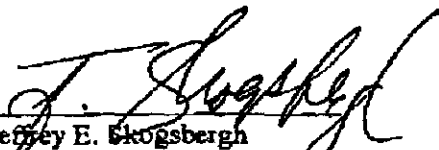
All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Jeffrey E. Skogsbergh
Mark T. Dooks, Esq.
Gerald C. Tambe

- *Non-Public Arbitrator, Presiding Chair*
- *Non-Public Arbitrator*
- *Non-Public Arbitrator*

Concurring Arbitrators' Signatures


Jeffrey E. Skogsbergh
Chair, Non-Public Arbitrator

2/23/05
Signature Date

Mark T. Dooks, Esq.
Non-Public Arbitrator

Signature Date

Gerald C. Tambe
Non-Public Arbitrator

Signature Date

February 23, 2005
Date of Service

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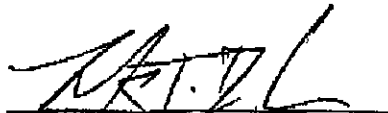
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