
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Thomas A Cummings

Case Number: 04-01876

Name of the Respondent

Robert W. Baird and Company, Incorporated

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Thomas A. Cummings, hereinafter referred to as "Claimant": Frederick C. Kramer, Esq., Law Offices of Frederick C. Kramer, Marco Island, Florida.

For Robert W. Baird and Company, Incorporated, ("Baird"), hereinafter referred to as "Respondent": Brian Trexell and Moira Moran, Esq., Robert W. Baird & Co. Incorporated, Milwaukee, Wisconsin.

CASE INFORMATION

Statement of Claim filed on or about: March 17, 2004.

Claimant's First Amended Statement of Claim filed on or about: August 23, 2004.

Claimant signed the Uniform Submission Agreement: March 5, 2004.

Statement of Answer including Motion to Dismiss filed by Respondent on or about: May 18, 2004.

Respondent's Response to Claimant's Amended Statement of Claim filed on or about October 8, 2004.

Respondent signed the Uniform Submission Agreement: May 5, 2004.

CASE SUMMARY

Claimant alleged the following causes of action: churning, breach of fiduciary duty, unsuitability, misrepresentation, omission, breach of contract, failure to supervise, and negligence. The causes of action relate to various stocks, bonds and mutual funds in Claimant's IRA account, including but not limited to: Accustaff Inc., Olsten Corp., ABC Rail Products Corp., Pride Petroleum International Inc., Danka Business Systems, Orthodontic Centers of America Inc., Bell & Howell Co., Intel Corp., Compaq Computer Corp., Dynex Capital Inc., MCI Worldcom Inc., Cisco Systems Inc., EMC Corp., Nextel Communications, Romac International Inc., Nasdaq 100 Trust, Vodafone Group, Microsoft Corp., and Van Kampen Aggressive Growth Fund..

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested recovery of actual damages in the amount of \$39,950.00; punitive damages in the amount of \$30,00.00; together with interest; attorneys' fees; and costs from Respondent.

Respondents requested an award dismissing all claims and requiring that the Claimant pay all costs and forum fees.

OTHER ISSUES CONSIDERED AND DECIDED

On or about July 29, 2004, the arbitration panel (the "Panel") approved Claimant's Amended Statement of Claim.

On or about January 18, 2005, the Panel issued an order, which denied Respondent's Motion to Dismiss.

At the evidentiary hearing, on the close of the Claimant's case, Respondent Baird moved to dismiss all of the Claimant's claims based on statute of limitations. Respondent Baird also moved for Summary Judgment/ Directed Verdict at this time. The Panel granted Respondent Baird's Motion to dismiss based on statute of limitations for all claims involving securities in the Claimant's accounts that were closed out, i.e., a purchase and corresponding sale, prior to March 17, 1998. The Panel denied the Motion to Dismiss for all other transactions and further denied the Respondent's Motion for Summary Judgment/ Directed Verdict.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel denied Claimant's claims in their entirety against Respondent and no liability and/or damages are assessed against Respondent.

Any and all claims for relief not specifically addressed herein, including Claimant's claims for attorneys' fees and costs, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$225.00

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, Respondent Baird is a member firm and a party.

Member Surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$1,700.00</u>
Total Member Fees	= \$3,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments granted during these proceedings for which fees were assessed.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

Three-day cancellation fees were not assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

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:

Two (2) Pre-hearing session with the Panel @ \$750.00 per session	= \$1,500.00
Pre-hearing conferences:	
July 29, 2004	1 session
January 18, 2005	1 session
Four (4) Hearing sessions @ \$750.00 per session	= \$3,000.00
Hearing Dates:	
February 23, 2005	2 sessions
February 24, 2005	2 sessions
<hr/> Total Forum Fees	<hr/> = \$4,500.00

The Panel has assessed forum fees in the amount of \$2,250.00 to Claimant.

The Panel has assessed forum fees in the amount of \$2,250.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,475.00
<u>Less payments</u>	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 1,500.00

Respondent is liable for:

Member Fees	= \$ 3,550.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 5,800.00
<u>Less payments</u>	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

ARBITRATION PANEL

Brian G. Mooney, Esq.	-	Public Arbitrator, Presiding Chairperson
David M. Levine	-	Public Arbitrator
Gene F. Mag	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/
Brian G. Mooney, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

_____/s/_____
David M. Levine
Public Arbitrator

Signature Date

_____/s/_____
Gene F. Mag
Non-Public Arbitrator

Signature Date

March 3, 2005
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
 Arbitration No. 04-01876
 Award Page 4 of 5

The Panel has assessed forum fees in the amount of \$2,250.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant is liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,475.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 1,500.00

Respondent is liable for:


Member Fees	= \$ 3,550.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 5,800.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 2,250.00

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

ARBITRATION PANEL

Brian G. Mooney, Esq.	-	Public Arbitrator, Presiding Chairperson
David M. Levine	-	Public Arbitrator
Gene P. Mag	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


 Brian G. Mooney, Esq.
 Public Arbitrator, Presiding Chairperson

3/2/05
 Signature Date

MAR. 2. 2005 2:47PM

NASD REGULATIONS

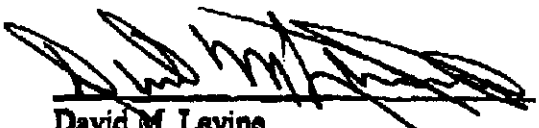
NO. 064

P. 6/6

NASD Dispute Resolution

Arbitration No. 04-01876

Award Page 5 of 5



David M. Levine
Public Arbitrator

March 2, 2005

Signature Date

Gene F. Mag
Non-Public Arbitrator

Signature Date

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

FROM : .

FAX NO. :

Mar. 02 2005 03:56PM P2

MAR. 2. 2005 2:44PM

NASD REGULATIONS

NO. 063 P. 6/6

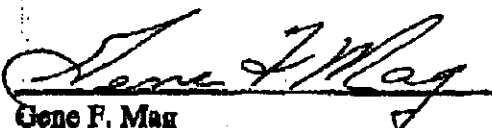
NASD Dispute Resolution

Arbitration No. 04-01876

Award Page 5 of 5

David M. Levine
Public Arbitrator

Signature Date


Gene F. Mag
Non-Public Arbitrator


Signature Date

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