

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Peter T. Frodigh (Claimant) v. RBC Dain Rauscher, Inc. (Respondent)

Case Number: 04-02009

Hearing Site: Boston, Massachusetts

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Peter T. Frodigh ("Frodigh") hereinafter referred to as "Claimant": Robert R. Berluti, Esq., Berluti & McLaughlin, LLC, Boston, MA.

Respondent RBC Dain Rauscher, Inc. ("RBC") hereinafter collectively referred to as "Respondent": Anne C. Patin, Esq., Seward & Kissel, LLP, New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: March 23, 2004.

Claimant signed the Uniform Submission Agreement: March 15, 2004.

Statement of Answer filed by Respondent on or about: June 8, 2004.

Respondent signed the Uniform Submission Agreement: June 2, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: breach of contract; breach of covenant of good faith and fair dealing, and violation of Massachusetts Wage and Hour Law.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$166,666.67, plus additional costs, fees, interest, and treble damages in the amount of \$333,333.33.

Respondent requested that Claimant's claims be dismissed with prejudice; costs, including attorneys' fees; and such, other, further and different relief as it deems just and proper.

### **OTHER ISSUES CONSIDERED AND DECIDED**

At the hearing in this matter Respondent made a Motion for Summary Judgment. After due deliberation the Panel denied said Motion.

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, evidence presented at the hearing and post-hearing submissions, 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 compensatory damages in the amount of \$166,667.00.
2. Any and all relief not specifically addressed herein, including treble 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

#### **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, RBC Dain Rauscher, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

#### **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 sessions with Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: September 13, 2004 1 session	

Two (2) Hearing sessions @ \$1,125.00	= \$2,250.00
Hearing Dates: December 1, 2004 2 sessions	

Total Forum Fees = \$3,375.00

1. The Panel has assessed all of the forum fees to the Respondent.

**Fee Summary**

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$1,425.00
<u>Refund Due Claimant</u>	= \$ 1,125.00

2. Respondent is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Forum Fees</u>	= \$3,375.00
<u>Total Fees</u>	= \$ 8,575.00
<u>Less payments</u>	= \$5,200.00
<u>Balance Due NASD Dispute Resolution</u>	= \$3,375.00

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

**ARBITRATION PANEL**

Robert H. Watts	-	Non-Public Arbitrator, Presiding Chairperson
Robert W. Crook	-	Non-Public Arbitrator
Jeffrey L. Frankel	-	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 which is my award.

\_\_\_\_\_  
Robert H. Watts  
Non-Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Robert W. Crook  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Jeffrey L. Frankel  
Non-Public Arbitrator

12-20-2004  
Signature Date

December 31, 2004  
Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

Robert H. Watts	-	Non-Public Arbitrator, Presiding Chairperson
Robert W. Crook	-	Non-Public Arbitrator
Jeffrey L. Frankel	-	Non-Public Arbitrator

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Robert H. Watts  
Non-Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Robert W. Crook  
Non-Public Arbitrator

Dec 30, 2004  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Jeffrey L. Frankel  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date


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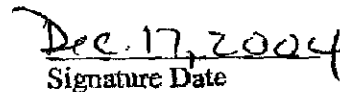
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Robert H. Watts  
Non-Public Arbitrator, Presiding Chairperson

  
Signature Date

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Robert W. Crook

Non-Public Arbitrator

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