

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Douglas Holloway, Claimant v. RBC Dain Rauscher, Inc. and Terry B. Fuerst, Respondents

Case Number: 04-02372

Hearing Site: San Francisco, California

Nature of the Dispute: Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

For Claimant:

in persona propria
San Francisco, California

For Respondent RBC Dain Rauscher, Inc.:

James L. Robart, Esq.
Michael A. Nesteroff, Esq.
Lane Powell Spears Lubersky, LLP
Seattle, Washington

For Respondent Terry B. Fuerst

in persona propria
Bainbridge Island, Washington

CASE INFORMATION

Statement of Claim filed: April 1, 2004

Claimant's Uniform Submission Agreement signed: March 30, 2004

Statement of Answer filed by Respondent RBC Dain Rauscher, Inc.: May 3, 2004

Statement of Answer filed by Respondent Terry B. Fuerst: May 3, 2004

Respondent RBC Dain Rauscher, Inc.'s Uniform Submission Agreement signed: April 22, 2004

Respondent Terry B. Fuerst's Uniform Submission Agreement signed: May 3, 2004

CASE SUMMARY

Claimant alleged misrepresentation, unsuitability, failure to supervise, and negligence. Claimant's allegations involved various unspecified securities.

Respondent RBC Dain Rauscher, Inc. denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

Respondent Terry B. Fuerst denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim.

On October 21, 2004, NASD received Claimant's notice that Claimant and Respondent RBC Dain Rauscher, Inc. had settled.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested \$20,997.00 in compensatory damages. At the hearing, Claimant amended his request for compensatory damages to \$9,987.30.

Respondent RBC Dain Rauscher, Inc. requested dismissal of the Claimant's Statement of Claim in its entirety and costs, including attorney's fees.

At the hearing, Respondent Terry B. Fuerst requested dismissal of the Claimant's Statement of Claim in its entirety and a recommendation for expungement of all references to this matter from his registration records maintained by the NASD Central Registration Depository ("CRD")

OTHER ISSUES CONSIDERED AND DECIDED

On April 22, 2004, Claimant signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On May 3, 2004, Respondent Terry B. Fuerst signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Pursuant to the Code of Arbitration Procedure IM-10100, the waiver of the Claimant shall constitute and operate as a waiver for all member firms and associated persons (including terminated or otherwise inactive member firms or associated persons) against whom the Claim has been filed.

At the hearing, Claimant moved to amend his Statement of Claim pursuant to the NASD Code of Arbitration Procedure Rule 10328(b). The Claimant amended the relief requested to reflect the amount requested from sole remaining Respondent Terry B. Fuerst. The Arbitrator granted 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 Arbitrator decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) Respondent Terry B. Fuerst's request for a recommendation for expungement of this matter from his registration records maintained by the NASD Central Registration Depository ("CRD") is denied.
- 3) The parties shall bear their respective costs.
- 4) 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 = \$ 125.00

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 = \$ 425.00

Adjournment Fees

The following adjournment fees are assessed:

November 5, 2004 Hearing Date adjournment requested by Respondent Terry B. Fuerst = waived

Forum Fees and Assessments

The Arbitrator 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 Arbitrator. The following fees are assessed:

(1) Pre-hearing conference session with the Arbitrator @ \$ 450.00/session = \$ 450.00
Pre-hearing conference: July 26, 2004 1 session

(1) Hearing sessions @ \$450.00/session = \$ 450.00
Hearing: November 17, 2004 1 session

Total Forum Fees = \$ 900.00

1. The Arbitrator assessed \$375.00 of the forum fees to Claimant.
2. The Arbitrator assessed \$375.00 of the forum fees to Respondent Terry B. Fuerst.
3. The Arbitrator assessed \$150.00 of the forum fees to Respondent RBC Dain Rauscher, Inc.

Fee Summary

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 375.00
Total Fees	= \$ 500.00
Less payments	= \$(575.00)
Refund due Claimant	= \$ (75.00)

2. Respondent Terry B. Fuerst is charged with the following fees and costs:

Forum Fees	= \$ 375.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 375.00

3. Respondent RBC Dain Rauscher, Inc. is charged with the following fees and costs:

Member Fees	= \$ 425.00
Forum Fees	= \$ 150.00
Total Fees	= \$ 575.00
Less payments	= \$ (425.00)
Balance Due NASD Dispute Resolution	= \$ 150.00

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.

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ARBITRATION PANEL

Michelle Brant

- Public Arbitrator

Arbitrator's Signature

Michelle Brant
Public Arbitrator

Signature Date

Date of Service

ARBITRATION PANEL

Michelle Brant

Public Arbitrator

Arbitrator's Signature

Michelle Brant
Michelle Brant
Public Arbitrator

Nov. 18, 2004
Signature Date

11/19/04
Date of Service