

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

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In the Matter of the Arbitration Between:

Luther Kevin Hawkins (Claimant) v. RBC Dain Rauscher, Inc. and Keith Daniel Schollard  
(Respondents)

Case Number: 04-03352

Hearing Site: Boston, Massachusetts

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Nature of the Dispute: Customer vs. Member and Associate Person

**REPRESENTATION OF PARTIES**

Claimant Luther Kevin Hawkins hereinafter referred to as "Claimant": Robert Bertsch, Esq.,  
Bertsch & Associates, P.C., Port Washington, NY.

Respondents RBC Dain Rauscher, Inc. ("RBC") and Keith Daniel Schollard ("Schollard")  
hereinafter collectively referred to as "Respondents": Abe Lampart, Esq., San Francisco, CA.

**CASE INFORMATION**

Statement of Claim filed on or about: May 5, 2004.

Claimant signed the Uniform Submission Agreement: April 17, 2004.

Joint Statement of Answer filed by Respondents on or about: June 29, 2004.

Respondent RBC signed the Uniform Submission Agreement: August 16, 2004.

Respondent Schollard signed the Uniform Submission Agreement: June 28, 2004.

**CASE SUMMARY**

Claimant asserted the following causes of action: suitability, omissions, misrepresentations, breach of fiduciary duty, violations of Section 10(b) of the Securities Exchange Act, violations of Section 15 of the Securities Act and Section 20 of the Securities Exchange Act, violation of Rule 440 of the New York Stock Exchange and SEC Rules (a)-3 and (a)-4. The causes of action relate to technology stocks.

Unless specifically admitted in their Answer, Respondents RBC and Schollard denied the allegations of wrongdoing set forth in the Statement of Claim and asserted various affirmative defenses.

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$225,000.00, interest from the date

of transactions through and including the date that the award is fully paid, costs and disbursements, including attorneys' fees, and such other and further relief as may be deemed just and proper.

Respondents requested dismissal of the Statement of Claim in its entirety, expungement of Respondent Keith D. Schollard's Central Registration Depository ("CRD") records, costs, and attorneys' fees.

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

On or about August 30, 2005 the parties notified NASD Dispute Resolution that this matter was settled and on December 8, 2005 submitted their Stipulation of Dismissal With Prejudice.

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**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. Claimant's claims are dismissed with prejudice in their entirety.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Keith D. Schollard's registration records maintained by the Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 04-16, Respondent Keith D. Schollard must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

Pursuant to Rule 2130 of the NASD Code of Arbitration Procedure, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is false.

3. Any and all relief not specifically addressed herein 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. In this matter, 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 assesses forum fees for each hearing session conducted. A hearing 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. Forum fees associated with these proceedings are:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$ 2,250.00

Pre-hearing conferences: November 10, 2004 1 session

April 7, 2006 1 session

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Total Forum Fees = \$ 2,250.00

1. The parties have agreed that Claimant will be assessed \$375.00 of the forum fees.
2. The parties have agreed that Respondent RBC will be assessed \$375.00 of the forum fees.
3. The parties have agreed that Respondent Schollard will be assessed \$375.00 of the forum fees.
4. The Panel has assessed \$1,125.00 of the forum fees jointly and severally to Respondents for the pre-hearing conference held on April 7, 2006.

### **Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 375.00

Total Fees = \$ 675.00

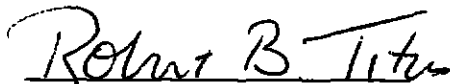
Less payments = \$ 1,425.00

Refund Due Claimant = \$ 750.00

**ARBITRATION PANEL**

Robert Titus	-	Public Arbitrator, Presiding Chairperson
Ruth-Ellen Post	-	Public Arbitrator
John B. Haggerty	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

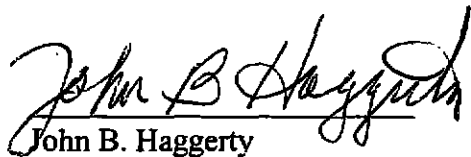


Robert Titus  
Public Arbitrator, Presiding Chairperson

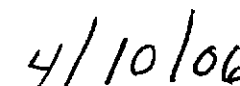
  
Signature Date

\_\_\_\_\_  
Ruth-Ellen Post  
Public Arbitrator

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



John B. Haggerty  
Non-Public Arbitrator

  
Signature Date

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May 12, 2006

Date of Service (For NASD office use only)

**ARBITRATION PANEL**

Robert Titus	-	Public Arbitrator, Presiding Chairperson
Ruth-Ellen Post	-	Public Arbitrator
John B. Haggerty	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

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Robert Titus  
Public Arbitrator, Presiding Chairperson

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Signature Date

  
Ruth-Ellen Post  
Public Arbitrator

May 11, 2006  
Signature Date

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John B. Haggerty  
Non-Public Arbitrator

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Signature Date

May 12, 2006  
Date of Service (For NASD office use only)