

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Paul Balsamello

and

04-03536
Chicago, Illinois

Name of Respondents

RBC Dain Rauscher Inc.
Robert Craig Shirley

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

REPRESENTATION OF PARTIES

Paul Balsamello ("**Claimant**") was represented by Thomas F. Burke, Esq., Chicago, Illinois.

RBC Dain Rauscher Inc. ("**Respondent RBC Dain**") and Robert Craig Shirley ("**Respondent Shirley**") hereinafter referred to as ("**Respondents**") were represented by Gordon D. Gee, Esq., Seigfreid Bingham Levy Selzer & Gee, Kansas City, Missouri.

CASE INFORMATION

The Statement of Claim was filed on or about May 14, 2004. Submission Agreement of Claimant Paul Balsamello was signed on May 19, 2004.

Statement of Answer was filed by Respondents RBC Dain Rauscher Inc. and Robert Craig Shirley on or about July 21, 2004. Submission Agreement of Respondent RBC Dain Rauscher Inc. was signed on June 3, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: failure to supervise; breach of fiduciary duty; churning; omission of facts; unsuitability; misrepresentation; and fraud. The causes of action relate to investments in Munder @Vantage Funds and Imclone Systems puts.

Unless specifically admitted in their Answer, Respondents denied the allegations set forth in the Statement of Claim. Respondents asserted the following affirmative defenses: failure to state a claim upon which relief can be granted; ratification; assumption of the risk; authorization;

Respondents acted in good faith and commercially reasonable manner; Respondents acted in accordance with all applicable Exchange rules and regulations; estoppel; waiver; applicable statutes of limitation; laches; unclean hands; failure to mitigate; contributory negligence; Respondents did not proximately cause any losses or damage to Claimant; and damages, if any, are the result of market forces beyond the control of Respondents.

RELIEF REQUESTED

Claimant requested an award in the amount of \$443,070.00, punitive damages in the amount of \$100,000.00, interest, attorneys' fees, costs, and any such relief the Panel deems just and equitable.

Respondents requested denial and dismissal of the claims.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Robert Craig Shirley did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel sustained the claim of failure to supervise against RBC Dain Rauscher, Inc. finding that the concentration of investments became unsuitable for Claimant and rejected the claims of fraud, omission of facts, churning, breach of fiduciary duty and misrepresentation.
2. Respondent RBC Dain Rauscher Inc. is liable for and shall pay to Paul Balsamello the sum of \$226,794.00 (**Two Hundred Twenty Six Thousand Seven Hundred Ninety Four Dollars and No Cents**) as compensatory damages.
3. Interest at the rate of 10% per annum is awarded on the above stated sum from and inclusive of the date this Award is served to and inclusive of the date this Award is paid in full.

4. The Panel recommends the expungement of all reference to this claim from Respondent Robert Craig Shirley's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Robert Craig Shirley must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
5. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
6. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

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 = \$375.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm(s) is RBC Dain Rauscher Inc.

Member surcharge	\$	2,250.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	4,000.00
Total Member Fees	\$	7,000.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

1	Pre-hearing session(s) with Panel	x	1,200.00	\$	1,200.00
	October 6, 2004	1	session		
4	Hearing sessions	x	1,200.00	\$	4,800.00
	February 22, 2005	2	sessions		
	February 23, 2005	2	sessions		
	Total Forum Fees			\$	6,000.00

The Arbitration Panel has assessed \$3,000.00 of the forum fees to Paul Balsamello.

The Arbitration Panel has assessed \$3,000.00 of the forum fees jointly and severally to RBC Dain Rauscher Inc. and Robert Craig Shirley.

Fee Summary

Claimant, Paul Balsamello, shall be and hereby is liable for:

Initial Filing Fee	= \$	375.00
<u>Forum Fees</u>	= \$	3,000.00
Total Fees	= \$	3,375.00
<u>Less payments</u>	= \$	-1,575.00
Balance Due NASD Dispute Resolution	= \$	1,800.00

Respondent, RBC Dain Rauscher Inc., shall be and hereby is liable for:

Member Fees	= \$	7,000.00
Total Fees	= \$	7,000.00
<u>Less payments</u>	= \$	-7,000.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, RBC Dain Rauscher Inc. and Robert Craig Shirley, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$	3,000.00
Total Fees	= \$	3,000.00
<u>Less payments</u>	= \$	-750.00
Balance Due NASD Dispute Resolution	= \$	2,250.00

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

Susan Bogart, J.D - Public Arbitrator, Presiding Chair

Bernard B. Bell - Public Arbitrator
David O. Juveland, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Susan Bogart
Susan Bogart, J.D.
Public Arbitrator, Presiding Chair

June 24, 2005
Signature Date

/s/ Bernard B. Bell
Bernard B. Bell
Public Arbitrator

June 24, 2005
Signature Date

/s/ David O. Juveland
David O. Juveland, Esq.
Non-Public Arbitrator

June 24, 2005
Signature Date

6/24/05
Date of Service (For NASD office use only)

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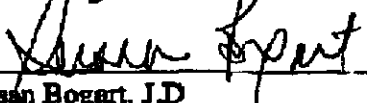
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Bernard B. Bell - Public Arbitrator
David O. Juveland, Esq. - Non-Public Arbitrator

Concurring Arbitrator:


Susan Bogart, J.D.
Public Arbitrator, Presiding Chair

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Public Arbitrator

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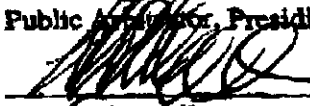
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Public Arbitrator, Presiding Chair


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