

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Darren Tsui and Tina Tsui, Claimants v. RBC Dain Rauscher Inc. and Mark Bailey,
Respondents

Case Number: 04-06265

Hearing Site: Seattle, Washington

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

REPRESENTATION OF PARTIES

For Claimants:

John A. Bender, Esq.
Kristin Nealey Meier, Esq.
Ryan, Swanson & Cleveland, PLLC
Seattle, Washington

For Respondents:

Rudy A. Englund, Esq.
Julie K. Thrall, Esq.
Lane Powell PC
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: August 31, 2004

Claimants' Joint Uniform Submission Agreement signed: August 25, 2004

Joint Statement of Answer filed by Respondents: December 1, 2004

Respondent RBC Dain Rauscher Inc.'s Uniform Submission Agreement signed:
November 3, 2004

Respondent Mark Bailey's Uniform Submission Agreement signed: November 29, 2004

CASE SUMMARY

Claimants alleged breach of fiduciary duty, unsuitability, misrepresentation and omission of facts, negligence, violation of the Washington State Consumer Protection Act (RCW 19.86.020), and failure to supervise. Claimants' causes of action relate to the alleged over-concentration of their account in Infospace stock.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested \$2,500,000.00 in compensatory damages, pre-judgment interest at the rate of 8% per annum, and costs, including attorney's fees.

Respondents requested dismissal of the Claimants' Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

During the hearing, after Claimants rested their case in chief, Respondents moved the Panel to Dismiss Claimants' claims in their entirety. After due deliberation, the Panel denied 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 Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) The Panel finds that Respondent RBC Dain Rauscher Inc.'s supervision of Respondent Mark Bailey was poorly documented and was likely less vigilant than would have been appropriate under the circumstances presented in this case. The Panel also finds that the Claimants suffered no damage that was proximately caused by Respondent RBC Dain Rauscher Inc.'s failure to supervise Mr. Bailey. Indeed, the Panel finds that the evidence presented failed to support any claim advanced by Claimants. Moreover, the Panel concludes that all claims advanced by Claimants are barred by applicable statutes of limitations. Accordingly, Claimants' claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) 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 = \$ 500.00

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 = \$2,800.00

Pre-Hearing Process Fee = \$ 750.00

Hearing Process Fee = \$5,000.00

Total Member Fees = **\$8,550.00**

Forum Fees and Assessments

The Panel 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 Chair or the parties and the Panel. The following fees are assessed:

Two (2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$ 2,400.00

Pre-hearing conferences: February 15, 2005 1 session
November 2, 2005 1 session

Nine (9) Hearing sessions @ \$1,200.00/session = \$10,800.00

Hearings: November 14, 2005 2 sessions
November 15, 2005 2 sessions
November 16, 2005 2 sessions
November 17, 2005 2 sessions
November 18, 2005 1 session

Total Forum Fees = **\$13,200.00**

The Panel assessed the entire balance of the forum fees, in the amount of \$13,200.00, to Respondent RBC Dain Rauscher Inc.

Fee Summary

1. Claimants Darren Tsui and Tina Tsui are jointly and severally charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
<u>Less payments</u>	<u>= \$ (1,700.00)</u>
Refund Due from NASD Dispute Resolution	= \$ (1,200.00)

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

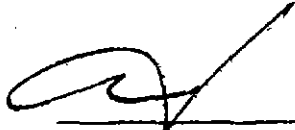
Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	<u>= \$13,200.00</u>
Total Fees	= \$21,750.00
<u>Less payments</u>	<u>= \$ (8,550.00)</u>
Balance Due NASD Dispute Resolution	= \$13,200.00

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.

ARBITRATION PANEL

<i>Joseph C. Roberts</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Imants J. Leskinovitch</i>	-	<i>Public Arbitrator</i>
<i>Robert W. Pillitteri</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures



Joseph C. Roberts
Chair, Public Arbitrator

11-21-05

Signature Date

Imants J. Leskinovitch
Public Arbitrator

Signature Date

Robert W. Pillitteri
Non-Public Arbitrator

Signature Date

November 21, 2005

Date of Service

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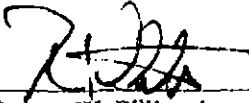
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