

Award
NASD Dispute Resolution

COPY

In the Matter of the Arbitration Between:

Juan C. Giron, Claimant v. RBC Dain Rauscher Inc. and Timothy D. Rannow, Respondents

RBC Dain Rauscher Inc., Counter-Claimant v. Juan C. Giron, Counter-Respondent

Case Number: 04-07168

Hearing Site: Phoenix, Arizona

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

REPRESENTATION OF PARTIES

For Claimant/Counter-Respondent

Juan C. Giron (Claimant):

Mark D. Chester, Esq.
Chester & Stein
Scottsdale, Arizona

For Respondent/Counter-Claimant

RBC Dain Rauscher Inc. and Respondent

Timothy D. Rannow:

Nicole M. Siemens, Esq.
Lindquist & Vennum, P.L.L.P.
Minneapolis, Minnesota

CASE INFORMATION

Statement of Claim filed on or about October 11, 2004

Response of Claimant to Respondent/Counter-Claimant RBC Dain Rauscher Inc.'s Counterclaim
filed: March 3, 2005

Claimant's Uniform Submission Agreement signed: October 22, 2004

Joint Statement of Answer filed by Respondent/Counter-Claimant RBC Dain Rauscher Inc. and
Respondent Timothy D. Rannow and Counterclaim filed by Respondent/Counter-Claimant RBC
Dain Rauscher Inc.: January 5, 2005

Respondent/Counter-Claimant RBC Dain Rauscher Inc.'s Uniform Submission Agreement signed:
November 29, 2004

Respondent Timothy D. Rannow's Uniform Submission Agreement signed: January 11, 2005

CASE SUMMARY

In his Statement of Claim, Claimant alleged fraud and/or negligent misrepresentation, constructive termination, and breach of contract.

In its Statement of Answer to the Statement of Claim, unless specifically admitted, Respondent/Counter-Claimant RBC Dain Rauscher Inc. and Respondent Timothy D. Rannow denied the allegations made in the Statement of Claim.

In its Counter-Claim, Respondent/Counter-Claimant RBC Dain Rauscher Inc. alleged failure to pay a Promissory Note.

In his Response to the Counter-Claim, Claimant denied the allegations made in Respondent/Counter-Claimant RBC Dain Rauscher Inc.'s Counterclaim.

RELIEF REQUESTED

Claimant requested unspecified compensatory damages and costs, including attorney's fees.

Respondent/Counter-Claimant RBC Dain Rauscher Inc. and Respondent Timothy D. Rannow requested dismissal of the Claimant's Statement of Claim in its entirety.

Respondent/Counter-Claimant RBC Dain Rauscher Inc. requested compensatory damages in the amount of \$122,261.90 plus interest at the rate of 3.59 percent per annum, and costs, including attorney's fees.

Claimant requested dismissal of Respondent/Counter-Claimant RBC Dain Rauscher Inc.'s Counterclaim in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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) Claimant's claims against Respondent/Counter-Claimant RBC Dain Rauscher Inc. and Respondent Timothy D. Rannow are dismissed and Claimant is awarded nothing thereunder.
- 2) Respondent/Counter-Claimant RBC Dain Rauscher Inc. is awarded on its counterclaim against Claimant in the sum of \$130,000.00 subject to the injunctive restrictions set forth in paragraph 3. This is the aggregate total award that takes into account all facts and considerations deemed relevant by the Panel, including unpaid note principal and interest, equities, appropriate offsets or reductions, interest to date, and costs of collection and attorney's fees to the extent deemed reasonable by the Panel.
- 3) Claimant may pay all or part of the Award prior to January 1, 2006, without interest. To the extent Claimant fails by then to pay the Award, Claimant is to pay the remaining unpaid balance plus interest from January 1, 2006 at the rate of 3.59% per annum in installments, including interest, of \$1,752.52 per month, or more, commencing with the month of February, 2006, on or before the first day of the month until the full amount of the Award is paid (84 monthly installments, if not sooner paid in full). Payments are to be made directly to Respondent/Counter-Claimant RBC Dain Rauscher Inc. However, Respondent/Counter-Claimant RBC Dain Rauscher Inc. may accelerate payment and become entitled to payment of the unpaid balance plus interest at the stated rate if Claimant fails to make any installment payment when due and does not cure the default within 10 days after receipt of written demand that the delinquent amount be paid. After subsequent acceleration, Respondent/Counter-Claimant RBC Dain Rauscher Inc. shall be entitled to recover additionally from Claimant Respondent/Counter-Claimant RBC Dain Rauscher Inc.'s reasonable attorney's fees and costs of collection incurred after the date of this award. Respondent/Counter-Claimant RBC Dain Rauscher Inc. is enjoined to make no attempt to sooner collect this Award and is directed to destroy the note dated October 3, 2003 or to endorse on its face that it has been superseded by the Award and may not be transferred as a negotiable instrument.
- 4) Except as awarded above, the parties shall bear their respective costs, including attorney's fees.
- 5) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the *Code of Arbitration Procedure* ("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	= \$ 250.00
Respondent/Counter-Claimant RBC Dain Rauscher, Inc. Counterclaim filing fee	= \$ 1,000.00

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	= \$ 1,500.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
Total Member Fees	= \$ 5,000.00

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 conference session with the Panel @ \$1,125.00/session	= \$ 1,125.00
Pre-hearing conference: February 28, 2005 1 session	
Six (6) Hearing sessions @ \$1,125.00/session	= \$ 6,750.00
Hearings: October 4, 2005 2 sessions	
October 5, 2005 2 sessions	
October 6, 2005 2 sessions	
Total Forum Fees	= \$ 7,875.00

1. The Panel assessed \$3,937.50 of the forum fees to Claimant.
2. The Panel assessed \$3,937.50 of the forum fees jointly and severally to Respondent/Counter-Claimant RBC Dain Rauscher Inc. and Respondent Timothy D. Rannow.

Fee Summary

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

Initial Filing Fee	= \$ 250.00
<u>Forum Fees</u>	= \$ 3,937.50
Total Fees	= \$ 4,187.50
<u>Less payments</u>	= \$(1,425.00)
Balance Due NASD Dispute Resolution	= \$ 2,762.50

2. Respondent/Counter-Claimant RBC Dain Rauscher, Inc. is charged with the following fees and costs:

Counterclaim Filing Fee	= \$ 1,000.00
<u>Member Fees</u>	= \$ 5,000.00
Total Fees	= \$ 6,000.00
<u>Less payments</u>	= \$(6,000.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondent/Counter-Claimant RBC Dain Rauscher Inc. and Respondent

Timothy D. Rannow are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 3,937.50
<u>Less payments by RBC Dain Rauscher, Inc.</u>	= \$(2,000.00)
Balance Due NASD Dispute Resolution	= \$ 1,937.50

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

Frederick K. Steiner, Jr.

Public Arbitrator, Presiding Chair

Brian A. Maris

Public Arbitrator

Anne Floyd Cavanagh

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Frederick K. Stinner, Jr.
Chair, Public Arbitrator

10/18/05
Signature Date

Brian A. Maris
Public Arbitrator

Signature Date

Anne Floyd Cavanagh
Non-Public Arbitrator

Signature Date

10/18/05
Date of Service

ARBITRATION PANEL

Frederick K. Steiner, Jr.	-	Public Arbitrator, Presiding Chair
Brian A. Maris	-	Public Arbitrator
Anne Floyd Cavanagh	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Frederick K. Steiner, Jr.
Chair, Public Arbitrator

Signature Date



Brian A. Maris
Public Arbitrator



Signature Date

Anne Floyd Cavanagh
Non-Public Arbitrator

Signature Date



Date of Service

ARBITRATION PANEL

Frederick K. Steiner, Jr.
Chair

-

Public Arbitrator, Presiding

Brian A. Maris

-

Public Arbitrator

Anne Floyd Cavanagh

-

Non-Public Arbitrator

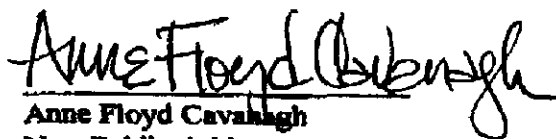
Concurring Arbitrators' Signatures

Frederick K. Steiner, Jr.
Chair, Public Arbitrator

Signature Date

Brian A. Maris
Public Arbitrator

Signature Date



Anne Floyd Cavanagh
Non-Public Arbitrator

10/14/2005
Signature Date

10/18/05
Date of Service