

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Kathleen B. Keenan

vs.

Case Number: 04-07238
Hearing Site: Milwaukee, Wisconsin

Names of Respondents

Robert W. Baird & Co., Inc.,
Charles E. Hupe, and Ruth M. Kitzman

NATURE OF DISPUTE

Customer v. Member and Associated Persons

REPRESENTATION OF PARTIES

Kathleen B. Keenan ("Claimant") was represented by Kyle E. Hart, Esq., Fabyanske, Westra & Hart, Minneapolis, Minnesota.

Robert W. Baird & Co., Inc. ("Baird"), Charles E. Hupe ("Hupe"), and Ruth M. Kitzman ("Kitzman"), hereinafter collectively referred to as "Respondents," were represented by Michael H. Schaalman, Esq., Quarles & Brady, LLP, Milwaukee, Wisconsin.

CASE INFORMATION

The Statement of Claim was filed on or about October 14, 2004. The Submission Agreement of Kathleen B. Keenan was signed on or about October 9, 2004. The Amended Statement of Claim was filed on or about December 6, 2004.

The Statement of Answer was filed by jointly by Respondents on or about January 14, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: churning; breach of fiduciary duty; unsuitability; misrepresentation; violation of 15 U.S.C. § 78j(b) C.F.R. § 240.10b-5; violation of Wis. Stat. §§ 551.41 and 551.49; control person liability under 15 U.S.C. § 77o & 78t(a) and Wis. Stat. § 551.49; respondeat superior and common law agency; and failure to supervise.

The causes of action related to Claimant's allegations that, contrary to her investment objectives, Respondents repeatedly bought and sold securities including IPSCO Inc., Raychem Corp., Pennzoil Company, and Guidant Corp., which caused Claimant to assume greater risk than she was willing to tolerate. Claimant further alleged that Respondents purchased an unspecified mutual fund with a substantial front-end load.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimant knowingly and voluntarily assumed the risks of the investments, events and matters alleged, and any losses incurred were the results of the risks which Claimant assumed; Claimant's alleged losses were proximately caused by her own conduct; Claimant suffered no damages by reason of the acts or omissions of the Respondents; Claimant could have mitigated her damages and should be barred from recovering to the extent that she failed to do so; and Claimant by her conduct with respect to the matters alleged, is barred from recovery by the doctrine of estoppel.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$100,000.01
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be dismissed with prejudice and that they be awarded their costs and attorneys' fees. Respondents, Hupe and Kitzman, requested expungement of all references to this matter from their CRD records.

OTHER ISSUES CONSIDERED & DECIDED

Respondents Robert W. Baird & Co., Inc., Charles E. Hupe, and Ruth M. Kitzman, did not file with the NASD Dispute Resolution properly executed submission to arbitration but are 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 are 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 NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Respondents, Robert W. Baird & Co., Inc., and Charles E. Hupe, are jointly and severally liable for and shall pay to Claimant, Kathleen B. Keenan, the sum of \$250,000.00 in compensatory damages;
- 2.) Respondents, Robert W. Baird & Co., Inc., and Charles E. Hupe, are jointly and severally liable for and shall pay to Claimant, Kathleen B. Keenan, the sum of \$100,000.00 in attorneys' fees. In deciding to award attorneys' fees, the Panel considered the pleadings filed by counsel, as well as the arguments presented on behalf of the parties, and determined that authority existed for an award of attorneys' fees to the Claimant;
- 3.) Claimant's claims against Respondent, Ruth M. Kitzman, each and all, are hereby denied and dismissed with prejudice;
- 4.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 5.) Any relief not specifically enumerated, including punitive damages, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee 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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is Robert W. Baird & Co., Inc.

Member surcharge = \$ 1,700.00

Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	2,750.00

Adjournment Fees

Adjournments granted during these proceedings:

December 6 – 9, 2005, adjournment requested by Respondents	= \$	1,125.00
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Forum Fees and Assessments

The Panel has assessed forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers. 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. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Panel x \$1,125.00	= \$	2,250.00
Pre-hearing conferences: February 3, 2005 1 session		
December 6, 2005 1 session		

Ten (10) Hearing sessions x \$1,125.00	= \$	11,250.00
Hearing Dates:		
July 11, 2006 2 sessions		
July 12, 2006 2 sessions		
July 13, 2006 2 sessions		
October 16, 2006 2 sessions		
October 17, 2006 2 sessions		

Total Forum Fees	= \$	13,500.00
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The Panel has assessed \$13,500.00 of the forum fees to Robert W. Baird & Co., Inc.

Fee Summary

Claimant, Kathleen B. Keenan, is liable for:

Initial Filing Fee	= \$	300.00
Total Fees	= \$	300.00
Less payments	= \$	1,250.00
Refund Due Claimant	= \$	950.00

Respondent, Robert W. Baird & Co., Inc., is liable for:

Member Fees	= \$	5,200.00
Forum Fees	= \$	13,500.00
Total Fees	= \$	18,700.00
Less payments	= \$	4,600.00

Balance Due NASD Dispute Resolution = \$ 14,100.00

Respondents, Robert W. Baird & Co., Inc., Charles E. Hupe, and Ruth M. Kitzman, are jointly and severally liable for:

<u>Adjournment Fee</u>	= \$ 1,125.00
<u>Total Fees</u>	= \$ 1,125.00
<u>Less payments</u>	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$ 375.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Gerald J. Thain, JD - Public Arbitrator, Presiding Chair
John Fennig, Esq. - Public Arbitrator
Brian E. Slotky - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Gerald J. Thain, JD
Gerald J. Thain, JD
Public Arbitrator, Presiding Chair

November 12, 2006
Signature Date

John Fennig, Esq.
Public Arbitrator

Signature Date

/s/ Brian E. Slotky
Brian E. Slotky
Non-Public Arbitrator

November 13, 2006
Signature Date

November 14, 2006
Date of Service (For NASD office use only)

Balance Due NASD Dispute Resolution = \$ 14,100.00

Respondents, Robert W. Baird & Co., Inc., Charles E. Hupe, and Ruth M. Kitzman, are jointly and severally liable for:


Adjournment Fee	= \$ 1,125.00
Total Fees	= \$ 1,125.00
Less payments	= \$ 760.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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ARBITRATION PANEL

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John Fennig, Esq. - Public Arbitrator
Brian E. Slotky - Non-Public Arbitrator

Concurring Arbitrators:


Gerald J. Thain, JD
Public Arbitrator, Presiding Chair

Nov. 12, 2006
Signature Date

John Fennig, Esq.
Public Arbitrator

Signature Date

Brian E. Slotky
Non-Public Arbitrator

Signature Date

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Adjournment Fee	= \$ 1,125.00
Total Fees	= \$ 1,125.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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Public Arbitrator, Presiding Chair

Signature Date

John Fennig, Esq.
Public Arbitrator

Signature Date

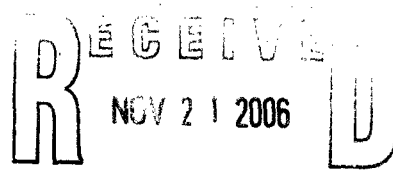


Brian E. Slotky
Non-Public Arbitrator

11/13/06

Signature Date

Date of Service (For NASD office use only)



Balance Due NASD Dispute Resolution = \$ 14,100.00

Respondents, Robert W. Baird & Co., Inc., Charles E. Hupe, and Ruth M. Kitzman, are jointly and severally liable for:

Adjournment Fee	= \$ 1,125.00
Total Fees	= \$ 1,125.00
Less payments	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$ 375.00

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John Fennig, Esq. - Public Arbitrator
Brian E. Slotky - Non-Public Arbitrator

Concurring Arbitrators:

Gerald J. Thain, JD
Public Arbitrator, Presiding Chair


John Fennig, Esq.
Public Arbitrator

Signature Date


Signature Date

Brian E. Slotky
Non-Public Arbitrator

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