
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of Claimants

Mark Herman and Norma Herman

vs.

Case Number: 04-7600

Hearing Site: Houston, Texas

Names of Respondents

RBC Dain Rauscher, Inc. and
Mark Steven Baker

NATURE OF DISPUTE

Customers v. Member Firm and Associated Person

REPRESENTATION OF PARTIES

Mark Herman and Norma Herman ("Claimants") were represented by Joel H. Pullen, Esq., Pulman, Bresnahan & Pullen, L.L.P., San Antonio, Texas.

RBC Dain Rauscher, Inc. ("RBC") and Mark Steven Baker ("Baker"), hereinafter collectively referred to as "Respondents," were represented by Janiece Longoria, Esq., Ogden, Gibson, White, Brooks & Longoria, L.L.P., Houston, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about November 3, 2004. The Submission Agreement of Claimants was signed on or about November 3, 2004.

The Statement of Answer was filed jointly by Respondents on or about January 13, 2005. The Submission Agreement for Respondent RBC was filed on or about January 14, 2005. The Submission Agreement for Respondent Baker was filed on or about January 14, 2005.

CASE SUMMARY

Claimants asserted the following causes of action: breach of trust, breach of contract, breach of fiduciary duty, negligence and negligent misrepresentation and violations of Washington Securities Act. The causes of action related to the recommendation and purchase of various unspecified transactions in Claimants' accounts at RBC.

Respondents denied the allegations of made in the Statement of Claim and asserted the following defenses: (i) to the extent Claimants incurred any damages, such damages were attributable to market conditions and not to any acts or omissions of Respondents; (ii) estoppel (iii) waiver; (iv) ratification; (v) commercial reasonableness; (vi) assumption of risks; (vii) limitations; (viii) compliance with Exchange rules and regulations; (ix) failure to mitigate; (x) contributory negligence; and (xi) that an award of punitive or exemplary damages would be in violation of the United States and state Constitutions.

RELIEF REQUESTED

Claimants requested an Award in the amount of:

Actual/Compensatory Damages	\$320,000.00
Punitive/Exemplary Damages	\$250,000.00
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

OTHER ISSUES CONSIDERED AND DECIDED

On or about December 22, 2005, Claimants and Respondents reached an agreement to settle the claims asserted in the arbitration proceeding. On January 10, 2006, NASD received notification from Claimants' counsel that the case had settled and therefore, the case was closed.

In light of the settlement of the claims, Claimants and Respondents request that all claims in this case be dismissed with prejudice and further request the expungement of Claimants' complaint from the CRD record of Mark Steven Baker. Claimants and Respondents have agreed that all disputes between them are fully and finally resolved.

On or about March 2, 2006, the parties submitted an Agreed Motion to Reopen for the Limited Purpose of Execution of an Agreed Stipulated Award.

On or about March 7, 2006, the Panel granted the parties' Motion to Reopen and requested a prehearing be scheduled to hear oral arguments regarding the expungement request.

On or about May 4, 2006, the parties submitted a Joint Brief in Support of Execution of Stipulated Award.

On May 4, 2006, the Panel heard oral arguments regarding the expungement. After deliberations, the Panel granted the expungement under Rule 2130. In addition, at the start of the prehearing call, Respondent RBC stated that it would pay the entire forum fee for the call.

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 remains on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the pleadings, the testimony and evidence presented at the prehearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. All claims in this case are dismissed with prejudice pursuant to the parties' settlement agreement;
2. Other than NASD Fees which are specified below, the parties shall each bear their own costs and expenses, including attorneys' fees, incurred in this matter;
3. The Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent, Mark Steven Baker's, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent, Mark Steven Baker, 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, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

4. Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees:

NASD Dispute Resolution, Inc. will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 375

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, the member firm is RBC Dain Rauscher, Inc.

Member Surcharge = \$ 2,250

Pre-Hearing Process Fee = \$ 750

Hearing Process Fee = \$ 4,000

Adjournment Fees:

Adjournments granted during these proceedings:

November 30-December 2, 2005, = \$ 1,200

Adjournment requested jointly by the parties

(Fee waived by NASD as the parties participated in NASD mediation)

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 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 sessions with Panel x \$1,200.00 = \$ 2,400.00

Pre-hearing conferences: March 23, 2005 1 session

May 4, 2006 1 session

Total Forum Fees = \$ 2,400.00

The Arbitration Panel has assessed \$600.00 of the forum fees jointly and severally against Party Claimants.

The Arbitration Panel has assessed \$1,200.00 of the forum fees against RBC Dain Rauscher, Inc.

The Arbitration Panel has assessed \$600.00 of the forum fees jointly and severally against RBC Dain Rauscher, Inc. and Mark Steven Baker.

Fee Summary

Claimants, Mark Herman and Norma Herman, are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fee	= \$ 600.00
Total Fees	= \$ 975.00
Less payments	= \$ 1,575.00
Refund Paid to Claimants	= \$ 600.00

Respondent, RBC Dain Rauscher, Inc., is liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 1,200.00
Total Fees	= \$ 8,200.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

Respondents, RBC Dain Rauscher, Inc. and Mark Steven Baker, are jointly and severally liable for:

Forum Fees	= \$ 600.00
Total Fees	= \$ 600.00
Less payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Bertrand P. Moser, Esq. - Public Arbitrator, Presiding Chair
Anthony Bill Kashouty - Public Arbitrator
Larry J. Sklar - Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ Bertrand P. Moser, Esq.
Bertrand P. Moser, Esq.
Public Arbitrator, Presiding Chair

May 11, 2006
Signature Date

/s/ Anthony Bill Kashouty
Anthony Bill Kashouty
Public Arbitrator

May 11, 2006
Signature Date

/s/ Larry J. Sklar
Larry J. Sklar
Non-Public Arbitrator


May 11, 2006
Signature Date

May 11, 2006
Date of Service (For NASD office use only)

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Public Arbitrator, Presiding Chair

5/11/06

Signature Date

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Public Arbitrator

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