

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Randi and Richard Rittel  
and Trust Company of the Ozarks, Inc., Successor  
Trustee for the Hofbeck RLT UTA DTS 31/93,  
Claimants

Case Number: - 04-07673

v.

Hearing Site: St. Louis, Missouri

RBC Dain Rauscher, Inc., Scott Allen Burns  
and Partners In Care, Inc.,  
Respondents.

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**NATURE OF THE DISPUTE**

Customers vs. Member Firm, Associated Person and Non-Member

**REPRESENTATION OF PARTIES**

Randy and Richard Rittel and Trust Company of the Ozarks, Inc., Successor Trustee for the Hofbeck RLT UTA DTD 3/1/03 (the "Rittels"), hereinafter collectively referred to as "Claimants": Joseph D. Sheppard, III, Esq. of the law firm Carnahan, Evans, Cantwell & Brown, P.C., located in Springfield, Missouri.

RBC Dain Rauscher, Inc. ("RBC") and Scott Allen Burns ("Burns"), hereinafter collectively referred to as "Respondents: Julie K. Thrall, Esq. of the law firm Lane Powell, P.C., located in Seattle, Washington.

**CASE INFORMATION**

Statement of Claim filed on or about: November 5, 2004

Claimants Rittel signed the Uniform Submission Agreement: September 17, 2004

Respondents, RBC and Burns, filed a response to the Statement of Claim on or about:  
*September 16, 2005*

Respondent RBC signed the Uniform Submission Agreement: December 27, 2004

Respondent Burns signed the Uniform Submission Agreement: September 20, 2005

Respondent Partners In Care, Inc. ("Partners") is not a member firm. By letter of February 2, 2005, Partners notified NASD that it did not agree to submit to arbitration.

**CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract, misrepresentations, breach of fiduciary duty, suitability, negligence and violation of NASD Rules and federal securities laws. The causes of action relate to unspecified technology and pharmaceutical stocks. Claimants asserted that these were speculative and unsuitable stocks for their investment needs and objectives.

Unless specifically admitted in their Answer, Respondents RBC and Burns denied the allegations made in the Statement of Claim and asserted that Claimants were not customers of RBC, but rather, Partners In Care. As such, Respondents asserted that there is no enforceable written agreement requiring arbitration of this matter before the NASD.

### **RELIEF REQUESTED**

Claimants requested \$230,000.00 in compensatory damages; punitive damages; pre and post-judgment interest; costs; and for such other and further relief as the Panel deems just and proper.

Respondents requested dismissal of the claims in the Statement of Claim in its entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

Respondent Partners In Care did not file with NASD Dispute Resolution an executed submission to arbitration, and it is not an NASD member firm. As a result, NASD does not have jurisdiction over the claims asserted against Partners and they were not adjudicated.

On or about September 9, 2005, NASD was notified that the parties have settled this matter. Pursuant to their settlement, the parties requested for a Stipulated Award expunging the record of Respondent, Scott Allen Burns, maintained by the NASD Central Registration Depository ("CRD") of all reference to this arbitration. A telephonic hearing was held on October 19, 2005 to address Respondents' request. After review of the pleadings submitted by the parties and hearing the parties' oral arguments, the Panel issued an Order on October 19, 2005, which granted Respondents' request for expungement.

### **AWARD**

After considering the parties' submissions and representations, the undersigned arbitrators order as follows:

- 1.) Based upon the pleadings, the letters of record, the telephonic testimony received and the representations of the party representatives, the arbitration Panel makes the affirmative finding that the claims presented in the pleadings of this arbitration proceeding are false and have no meaningful investor protection value to remain on the record.

The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Burns' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent Burns must obtain confirmation from a court of competent jurisdiction before CRD will execute the expungement directive.

Pursuant to NASD Rule 2130, the arbitration panel has made the following affirmative findings of fact:

The claim, allegation, or information is false.

- 2.) Any and all claims asserted by Claimants, Randi and Richard Rittel and Trust Company of the Ozarks, Inc., Successor Trustee for the Hofbeck RLT UTA DTS 31/93, are dismissed with prejudice;
- 3.) Except as otherwise specified herein, parties shall bear their own costs, including attorneys' fees.
- 4.) Any and all 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 or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 300.00  
(waived by NASD)

#### **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, RBC Dain Rauscher, Inc. is a party to this proceeding and is assessed the following:

Member surcharge = \$1,700.00  
Pre-hearing process fee = \$ 750.00

#### **Forum Fees and Assessments**

The 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. Fees associated with these proceedings are:

One (1) Hearing session x \$1,125.00 = \$1,125.00

Telephonic Hearing Date: October 19, 2005 1 session

Total Forum Fees = \$1,125.00

The Panel assessed 100% of the total forum fees in the amount of \$1,125.00 solely to Respondent RBC Dain Rauscher, Inc.

### **FEE SUMMARY**

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

Member Fees	= \$2,450.00
Forum Fees	= \$1,125.00
Total Fees	= \$3,575.00
Less payments	= \$2,450.00
Balance Due NASD Dispute Resolution	= \$1,125.00

All balances are due to NASD Dispute Resolution.

**ARBITRATION PANEL**

Richard A. Van Kalker, Esq.	-	Public Arbitrator, Presiding Chairperson
Lawrence M. Raskin, CPA	-	Public Arbitrator
Brian L. Evans	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/ Richard A. Van Kalker, Esq.  
Richard A. Van Kalker, Esq.  
Public Arbitrator, Presiding Chair

11/17/05  
Signature Date

/a/ Lawrence M. Raskin, CPA  
Lawrence M. Raskin, CPA  
Public Arbitrator

11/16/05  
Signature Date

/s/ Brian L. Evans  
Brian L. Evans  
Non-Public Arbitrator

11/17/05  
Signature Date

11/18/05  
Date of Service (For NASD office use only)

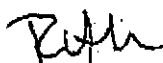
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