

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Haruko Hochi, individually and as trustee of The Haruko Hochi Trust, Claimants v.
Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric
Baccam, Baccam & Associates, Inc., and Baccam & Company Insurance Services, Inc.,
Respondents

Case Number: 04-08505

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Member, Non-Members, and Associated Persons

REPRESENTATION OF PARTIES

For Claimants Haruko Hochi
and the Haruko Hochi Trust ("Claimants"):

Stephen Acker, Esq.
Acker, Kowalick & Whipple
Los Angeles, California

For Respondents Linsco/Private Ledger Corp.
and Joshua Van Ryswyk:

David S. Markun, Esq.
Markun, Zusman & Compton, LLP
Pacific Palisades, California

For Oai Baccam a/k/a Dan Baccam,
Patric Baccam, and Baccam & Associates, Inc.:

Thomas Rittenburg, Esq.
Lewis, Brisbois, Bisgaard & Smith, LLP
Los Angeles, California

CASE INFORMATION

Statement of Claim dated: December 15, 2004

Claimants' Joint Uniform Submission Agreement signed: December 15, 2004

Joint Statement of Answer filed by Respondents Linsco/Private Ledger Corp., Joshua Van
Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric Baccam, and Baccam & Associates, Inc.
("Respondents"): March 18, 2005

Linsco/Private Ledger Corp.'s Uniform Submission Agreement signed: February 11, 2005

Joshua Van Ryswyk's Uniform Submission Agreement signed: March 22, 2005

Oai Baccam a/k/a Dan Baccam's Uniform Submission Agreement signed: March 25, 2005

Patric Baccam's Uniform Submission Agreement signed: March 22, 2005

Baccam & Associates, Inc.'s Uniform Submission Agreement signed: March 25, 2005

CASE SUMMARY

Claimants alleged breach of fiduciary duty, conversion, unsuitability, switching, intentional misrepresentation, negligent misrepresentation, elder abuse, violation of NASD Rules and state laws, and failure to supervise. Claimants' allegations involved the multiple purchase and surrender of variable annuities and variable life insurance policies underwritten by the following companies: Pacific Life, ITT Hartford, USG, and Midland National Life.

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

RELIEF REQUESTED

Claimants requested \$698,229.66 in compensatory damages, \$2,100,000.00 in exemplary damages, interest, and costs, including attorney's fees.

Respondents requested dismissal of Claimants' Statement of Claim in its entirety, expungement of all reference to the above-captioned arbitration from Respondents Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric Baccam's registration records maintained by the NASD Central Registration Depository, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

On February 8, 2005, Claimants and Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On March 18, 2005, Respondents Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric Baccam, and Baccam & Associates, Inc., and their counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

Respondent Baccam & Company Insurance Services, Inc. is not a member of the NASD and did

not sign a Uniform Submission Agreement. The Panel dismissed without prejudice Respondent Baccam & Company Insurance Services, Inc. upon a finding that they were not required to submit to arbitration pursuant to the Code of Arbitration Procedure.

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) Respondents Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric Baccam, Baccam & Associates, Inc. are jointly and severally liable to and shall pay Claimants the sum of \$161,621.00 in compensatory damages.
- 2) Respondents Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric Baccam, Baccam & Associates, Inc. are jointly and severally liable to and shall pay Claimants interest in the amount of 7% per annum on \$118,000.00 from January 1, 2000 through and including December 31, 2005.
- 3) Respondents Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric Baccam, Baccam & Associates, Inc. are jointly and severally liable to and shall pay Claimants the sum of \$50,000.00 in attorney's fees, pursuant to the California Welfare & Institutions Code sections 15610.30 and 15657, and the California Elder Abuse and Dependency Act.
- 4) With the exception of paragraph 3, the parties shall bear their respective costs, including attorney's fees.
- 5) Respondent Baccam & Company Insurance Services, Inc. is dismissed without prejudice.
- 6) All other relief requested and not expressly granted, including Claimants' request for exemplary damages, and Respondents Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric Baccam's request for expungement, is denied.

FEES

Pursuant to the NASD 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	= \$ 500.00
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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, which gave rise to the dispute, claim, or controversy. Accordingly, the member firm Linsco/Private Ledger Corp. is a party and the following fees are assessed:

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Adjournment Fees

The following adjournment fees are assessed:

October 11-12, 2005 adjournment requested by Respondents Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, and Patric Baccam	= \$1,200.00
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The Panel assessed the adjournment fee in the amount of \$1,200.00 jointly and severally to Respondents Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, and Patric Baccam.

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/Panel. The following fees are assessed:

One (1) Pre-hearing conference session(s) with the Panel @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: October 17, 2005 1 session	

Five (5) Hearing sessions @ \$1,200.00/session	= \$6,000.00
Hearings: March 21, 2006 2 sessions	
March 22, 2006 2 sessions	

March 23, 2006 1 session

Total Forum Fees = \$7,200.00

The Panel assessed the entire balance of the forum fees, in the amount of \$7,200.00, to Respondents Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric Baccam, Baccam & Associates, Inc., jointly and severally.

Fee Summary

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

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

2. Respondent Linsco/Private Ledger Corp. is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Less payments</u>	= \$(8,550.00)
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, and Patric Baccam, are jointly and severally charged with the following fees:

<u>Adjournment Fees</u>	= \$ 1,200.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

4. Respondents Linsco/Private Ledger Corp., Joshua Van Ryswyk, Oai Baccam a/k/a Dan Baccam, Patric Baccam, and Baccam & Associates, Inc. are jointly and severally charged with the following fees:

<u>Forum Fees</u>	= \$ 7,200.00
Balance Due NASD Dispute Resolution	= \$ 7,200.00

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.

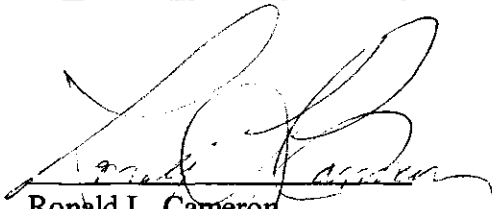
ARBITRATION PANEL

Ronald L. Cameron
Thomas E. Higgins
Robert Taylor

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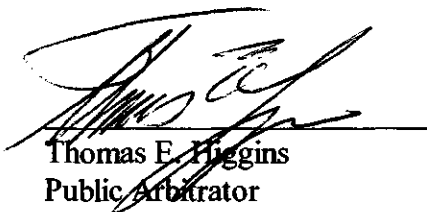
Public Arbitrator, Presiding Chair
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures



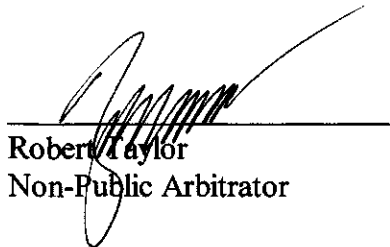
Ronald L. Cameron
Chair, Public Arbitrator

3/23/06
Signature Date



Thomas E. Higgins
Public Arbitrator

3/23/06
Signature Date



Robert Taylor
Non-Public Arbitrator

3/23/06
Signature Date

March 23, 2006
Date of Service