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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Morton E. "Woody" Wolverton

Case Number: 05-00234

Name of the Respondent  
Robert W. Baird & Co., Inc.

Hearing Site: Tampa, Florida

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Nature of the Dispute: Associated Person vs. Member.

**REPRESENTATION OF PARTIES**

For Morton E. "Woody" Wolverton, hereinafter referred to as "Claimant": William T. Kirtley, Esq., William T. Kirtley, P.A., Sarasota, Florida.

For Robert W. Baird & Co., Inc. ("Baird"), hereinafter referred to as "Respondent": Christopher J. Barber, Esq., Gardner, Carton & Douglas, L.L.P., Chicago, Illinois.

**CASE INFORMATION**

Statement of Claim filed on or about: January 18, 2005.

Claimant signed the Uniform Submission Agreement: January 14, 2005.

Answer to Statement of Claim filed by Respondent on or about: April 8, 2005.

Respondent Baird signed the Uniform Submission Agreement: January 24, 2005.

Response to Respondent's Affirmative Defenses filed by Claimant on or about: April 12, 2005.

Motion for Order Permitting Amendment to Statement of Claim filed by Claimant on or about: November 9, 2006.

Response to Motion for Order Permitting Amendment to Statement of Claim filed by Respondent on or about: November 20, 2006.

**CASE SUMMARY**

Claimant asserted the following causes of action: 1) violation of the Age Discrimination in Employment Act of 1967, as amended, 29 USC 621, et seq; 2) violation of the Florida Civil Rights Act of 1992, as amended, Chapter 670 Florida Statutes, as amended; and 3) wrongful and illegal denial of benefits. The causes of action relate to Respondent's alleged denial of stock options to which Claimant accrued during Claimant's employment relationship with Respondent and Respondent's alleged discrimination of Claimant as it relates to Claimant's age.

**RELIEF REQUESTED**

Claimant requested the following: 1) compensatory damages of \$3,000,000.00 as a result of

Respondent's discriminatory conduct; 2) compensatory damages of approximately \$200,000.00 as a result of Respondent's unlawful conduct denying the Claimant his rightful entitlement under the Robert W. Baird & Co., Inc. Deferred Compensation Plan; 3) compensatory damages of at least \$50,000.00 with respect to Respondent's unlawful conduct in denying Claimant his right to exercise the stock option; 4) compensatory damages of \$500,000.00 representing the compensation to which Claimant is entitled had Respondent honored and fulfilled the representations made during its recruitment of Claimant; 5) reimbursement of \$35,000.00 in costs; and 6) such other equitable and legal relief as the undersigned arbitrators (the "Panel") deemed appropriate to the circumstances.

Respondent requested the following: 1) that Claimant's Statement of Claim be dismissed in its entirety; 2) that Respondent be awarded attorneys' fees and costs; and 3) such other relief as the Panel deemed appropriate.

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

On or about November 27, 2006, Claimant filed with NASD Dispute Resolution ("NASD") his notice of Dismissal of Certain Claims. In this notice, Claimant dismissed, with prejudice, his claims relating to the Age Discrimination in Employment Act of 1967, as amended, 29 USC 621, et seq and the Florida Civil Rights Act of 1992, as amended, Chapter 670, Florida Statutes, as amended.

On or about December 11, 2006, the Panel granted Claimant's Motion for Order Permitting Amendment to Statement of Claim.

The parties agreed that the Award in this matter may be executed in counterpart copies.

### **AWARD**

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

1. Respondent is liable for wrongful denial of benefits and shall pay to Claimant compensatory damages in the amount of \$223,927.35.
2. Any and all other claims for relief not specifically addressed herein, including Respondent's request for attorneys' fees, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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	= \$ 600.00
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### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent Baird is a member firm and a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$5,000.00
Total Member Fees	= \$8,550.00

### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

January 23 – 27, 2006, adjournment requested by Claimant = \$1,200.00

The Panel has assessed adjournment fees of \$1,200.00 to Respondent Baird.

### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

Injunctive relief fees were not assessed in this matter.

### **Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

No three-day cancellation fees were assessed in this matter.

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with a single arbitrator @ \$450.00/session	= \$ 1,350.00
Pre-hearing conferences: August 16, 2005	1 session
August 18, 2005	1 session
December 19, 2005	1 session
Two (2) Pre-hearing sessions with the entire Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences: May 31, 2005	1 session
January 24, 2006	1 session

Eight (8) Hearing sessions @ \$1,200.00/session = \$ 9,600.00  
Hearing sessions: December 11, 2006 2 sessions  
December 12, 2006 2 sessions  
December 13, 2006 1 session  
December 14, 2006 1 session  
December 15, 2006 2 sessions

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Total Forum Fees = \$13,350.00

The Panel has assessed total forum fees in the amount of \$13,350.00 to Respondent Baird.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred in this matter.

**Fee Summary**

Claimant is solely liable for:

Initial Filing Fee	= \$ 600.00
Total Fees	= \$ 600.00
Less Payments	= \$ 600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Baird is solely liable for:

Member Fees	= \$ 8,550.00
Adjournment Fee	= \$ 1,200.00
Forum Fees	= \$13,350.00
Total Fees	= \$23,100.00
Less Payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$14,550.00

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

**ARBITRATION PANEL**

David S. Snyder, Esq.	-	Public Arbitrator, Presiding Chairperson
Bernard S. Carrey, Esq.	-	Public Arbitrator
David S. Bland, CPA	-	Public Arbitrator

**Concurring in Part, Dissenting in Part Arbitrator's Signature**

The Chairperson dissents as to \$29,343.00 of the above referenced Award of compensatory damages.

\_\_\_\_\_/s/\_\_\_\_\_  
David S. Snyder, Esq.  
Public Arbitrator, Presiding Chairperson

December 19, 2006  
Signature Date

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
Bernard S. Carrey, Esq.  
Public Arbitrator

December 19, 2006  
Signature Date

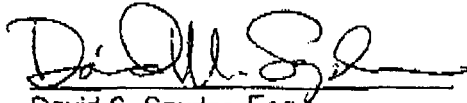
\_\_\_\_\_/s/\_\_\_\_\_  
David S. Bland, CPA  
Public Arbitrator

December 20, 2006  
Signature Date

December 21, 2006  
Date of Service (For NASD Dispute Resolution office use only)

**Concurring in Part, Dissenting in Part Arbitrator's Signature**

The Chairperson dissents as to \$29,343.00 of the above referenced Award of compensatory damages.



David S. Snyder, Esq.  
Public Arbitrator, Presiding Chairperson

12/19/06

Signature Date

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Bernard S. Carrey, Esq.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
David S. Bland, CPA  
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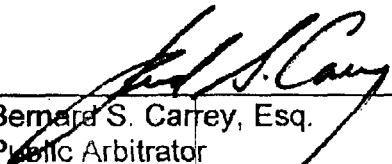
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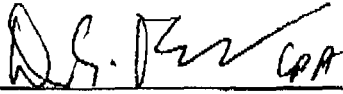
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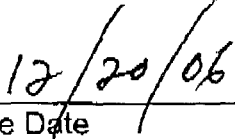
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Public Arbitrator

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