

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Rosemary D. Rhoades

and

05-02534  
Kansas City, Missouri

Name of Respondents

RBC Dain Rauscher, Inc.  
Charles Lowry Fuller

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

Rosemary D. Rhoades ("**Claimant**") was represented by Robert R. Barton, Esq., The Law Office of Robert R. Barton, LLC, Overland Park, Kansas.

RBC Dain Rauscher, Inc. and Charles Lowry Fuller ("**Respondents**") were represented by John W. Shaw, Esq., Berkowitz Oliver Williams Shaw & Eisenbrandt, LLP, Kansas City, Missouri.

**CASE INFORMATION**

The Statement of Claim was filed on or about June 30, 2005. Submission Agreement of Claimant Rosemary D. Rhoades was signed on May 28, 2005.

Joint Statement of Answer was filed by Respondents RBC Dain Rauscher, Inc. and Charles Lowry Fuller on or about September 2, 2005. Submission Agreement of Respondent RBC Dain Rauscher, Inc. was signed on July 8, 2005. Submission Agreement of Respondent Charles Lowry Fuller was signed on August 31, 2005.

**CASE SUMMARY**

Claimant asserted the following causes of action: Negligent supervision, breach of fiduciary duty, breach of contract, violations of the Kansas Securities Act, violations of the Kansas Consumer Protection Act, and breach of the duty of good faith and fair dealing. The causes of action relate to various transactions in Claimant's accounts at RBC Dain Rauscher, Inc.

Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and expected to assert the following defenses: (i) to the extent Claimant 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) an award of punitive or exemplary damages would be in violation of the United States and state constitutions.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$300,000.00 in compensatory damages, plus punitive damages, interest, costs, expenses and attorney's fees.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

In light of the settlement of the claims, Claimant and Respondents request that all claims in this case be dismissed with prejudice, and further request the expungement of Claimant's complaint from the CRD record of Charles Fuller.

### **OTHER ISSUES CONSIDERED & DECIDED**

The case settled, and Claimant and Respondents have agreed that all disputes between them are fully and finally resolved.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Stipulated 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 the NASD Dispute Resolution (the "NASD").

### **AWARD**

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. All claims in this case are dismissed with prejudice pursuant to the parties' settlement agreement.
2. Other than the NASD Fees 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 the registration records of Respondent Charles Fuller maintained by the NASD Central Registration Depository ("CRD") because Mr. Fuller was not involved in the alleged investment-related sales practice violation. The expungement is further recommended with the understanding that pursuant to NASD Notices to Members 99-09, 99-54 and 04-43, Respondent Charles Fuller must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.
5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

### **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

#### **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. In this matter, the member firm(s) is RBC Dain Rauscher, Inc.

Member surcharge	\$ 1,700.00
Pre-hearing process fee	\$ 750.00
Hearing process fee	\$ 2,750.00
Total Member Fees	\$ 5,200.00

#### **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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

1	Pre-hearing session(s) with Panel	x	\$1,125.00	\$	1,125.00
	November 16, 2005	1	session		
1	Telephonic hearing (expungement relief)	x	\$1,125.00		1,125.00
	May 30, 2006	1	session		
	Total Forum Fees			\$	2,250.00

The Arbitration Panel has assessed \$562.50 of the forum fees to Rosemary D. Rhoades.  
The Arbitration Panel has assessed \$1,687.50 of the forum fees jointly and severally to RBC Dain Rauscher, Inc. and Charles Lowry Fuller.

### Fee Summary

Claimant, Rosemary D. Rhoades, is liable for:

Initial Filing Fee	= \$	300.00
<u>Forum Fees</u>	= \$	562.50
Total Fees	= \$	862.50
<u>Less payments</u>	= \$	-1,425.00
Balance to be refunded by NASD Dispute Resolution	= \$	- 562.50

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

<u>Member Fees</u>	= \$	5,200.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	-5,200.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, RBC Dain Rauscher, Inc. and Charles Lowry Fuller are jointly and severally liable for:

<u>Forum Fees</u>	= \$	1,687.50
Total Fees	= \$	1,687.50
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	1,687.50

**All balances are due to NASD Dispute Resolution**

**ARBITRATION PANEL**

Murray S. Levin, Esq. - Public Arbitrator, Presiding Chair  
Donald H. Loudon, Sr., Esq. - Public Arbitrator  
John R. Lepley, CFP, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

Murray S. Levin  
Murray S. Levin, Esq.  
Public Arbitrator, Presiding Chair

06/05/06  
Signature Date

Donald H. Loudon, Sr.  
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Public Arbitrator

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Signature Date

John R. Lepley  
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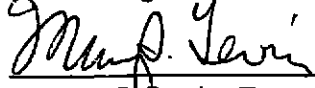
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Signature Date

6/9/06  
Date of Service (For NASD office use only)

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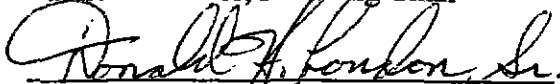
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