

**STIPULATED AWARD  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of Claimants

William and Jacqueline Crosby, Individually  
and as Settlers and Trustees of the  
William & Jacqueline Crosby Living Trust

vs.

Case Number: 05-04412  
Hearing Site: Dallas, Texas

Names of Respondents

RBC Dain Rauscher and  
John F. "Jack" Cashman

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**NATURE OF THE DISPUTE**

Customers vs. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

William and Jacqueline Crosby, Individually and as Settlers and Trustees of the William & Jacqueline Crosby Living Trust, hereinafter collectively referred to as "Claimants", were represented by Nicole T. LeBoeuf, Esq., of the firm of Campbell & LeBoeuf, P.C, Addison, Texas.

Respondents, RBC Dain Rauscher ("RBC") and John F. "Jack" Cashman ("Cashman"), hereinafter collectively referred to as "Respondents", were represented by Denis C. Dice, Esq., of the firm of Marshall, Dennehey, Warner, Coleman, & Goggin, located in Philadelphia, Pennsylvania.

**CASE INFORMATION**

The Statement of Claim was filed on or about August 23, 2005. The Submission Agreement of Claimants was signed on or about August 16, 2005.

The Joint Statement of Answer was filed by Respondents on or about October 31, 2005. The Submission Agreement of Respondent RBC was signed on or about November 7, 2005. The Submission Agreement of Respondent Cashman was signed on or about November 9, 2005.

Respondent Cashman's Motion for Expungement was filed on or about August 25, 2006.

### **CASE SUMMARY**

Claimants asserted the following causes of action: suitability, violations of federal securities law, violations of the Texas Securities Act, common law fraud, misrepresentation, constructive fraud, breach of fiduciary duty, breach of contract, negligent supervision, and respondeat superior liability. The causes of action related to Respondents' recommendation regarding municipal bonds purchased by Claimants in March 2003 known as the "Tarrant County Bonds." Claimants alleged that the recommendations went against their investment objectives.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: estoppel and unclean hands, market related losses, failure to mitigate damages, waiver, and ratification. Respondents aver that the bonds were investment grade and suitable for Claimants' stated risk tolerance and investment objectives.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$ 143,837.64
Exemplary/Punitive Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary/Non-Monetary Relief, if any	Unspecified

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

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

Claimants withdrew all claims against Respondent Cashman and settled all remaining claims effective June 30, 2006.

As such, prior to the hearing, the Parties fully resolved all issues by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

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

### **AWARD**

After considering the pleadings and Respondent Cashman's Motion for Expungement dated August 25, 2006, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) The listed parties have amenablely resolved their differences and have requested this Stipulated Award. Claimants' claims against Respondents RBC Dain Rauscher and John F. "Jack" Cashman are dismissed with prejudice pursuant to the parties' settlement agreement;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The Panel recommends the expungement of all references to the above captioned arbitration from Respondent John F. "Jack" Cashman's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 04-16, Respondent, John F. "Jack" Cashman 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 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 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 that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm, RBC Dain Rauscher, is a party and the following member fees are assessed:

Member surcharge	= \$ 1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 2,750.00

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers. A 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) Pre-hearing session(s) with a single arbitrator x \$450.00	= \$ 450.00
Pre-hearing conference: June 19, 2006 1 session	
Two (2) Pre-hearing session with Panel x \$1,125.00	= \$2,250.00
Pre-hearing conference: January 9, 2006 1 session	
November 21, 2006 1 session	
<hr/> Total Forum Fees	<hr/> = \$2,700.00

The Panel has assessed \$1,350.00 of the forum fees, jointly and severally, to the Claimants, William and Jacqueline Crosby, individually and as settlors and trustees of the William & Jacqueline Crosby Living Trust.

The Panel has assessed \$1,350.00 of the forum fees jointly and severally to RBC Dain Rauscher and John F. "Jack" Cashman.

### **FEE SUMMARY**

Claimants William and Jacqueline Crosby, Individually and as Settlers and Trustees of the William & Jacqueline Crosby Living Trust are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$1,350.00
<hr/> Total Fees	<hr/> = \$1,650.00

<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$ 225.00

Respondent RBC Dain Rauscher is liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,700.00
Balance To Be Applied To Respondents Fee Below	= \$ 500.00

Respondents RBC Dain Rauscher and John F. "Jack" Cashman are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,350.00
<u>Total Fees</u>	= \$1,350.00
<u>Less payments</u>	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 850.00

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

### **ARBITRATION PANEL**

Lawrence R. Maxwell, Jr., Esq. - Public Arbitrator, Presiding Chair  
Donald C. Hood - Public Arbitrator  
Beverly W. McKemie - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

\_\_\_\_\_  
Lawrence R. Maxwell, Jr., Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
Donald C. Hood  
Public Arbitrator

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

\_\_\_\_\_  
Beverly W. McKemie  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For NASD office use only)

<u>Less payments</u>	<u>= \$1,425.00</u>
<u>Balance Due NASD Dispute Resolution</u>	<u>= \$ 225.00</u>

Respondent RBC Dain Rauscher is liable for:

<u>Member Fees</u>	<u>= \$5,200.00</u>
<u>Total Fees</u>	<u>= \$5,200.00</u>
<u>Less payments</u>	<u>= \$5,700.00</u>
<u>Balance To Be Applied To Respondents Fee Below</u>	<u>= \$ 500.00</u>

Respondents RBC Dain Rauscher and John F. "Jack" Cashman are jointly and severally liable for;

<u>Forum Fees</u>	<u>= \$1,350.00</u>
<u>Total Fees</u>	<u>= \$1,350.00</u>
<u>Less payments</u>	<u>= \$ 500.00</u>
<u>Balance Due NASD Dispute Resolution</u>	<u>= \$ 850.00</u>

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

### **ARBITRATION PANEL**

Lawrence R. Maxwell, Jr., Esq. - Public Arbitrator, Presiding Chair  
Donald C. Hood - Public Arbitrator  
Beverly W. McKemie - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

Lawrence R. Maxwell, Jr., Esq.  
Public Arbitrator, Presiding Chair

Donald C. Hood  
Public Arbitrator

Beverly W. McKemie  
Non-Public Arbitrator

Signature Date

11.29.06  
Signature Date

Signature Date

12/29/06 *U/m*  
Date of Service (For NASD office use only)

<u>Less payments</u>	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$ 225.00

Respondent RBC Dain Rauscher is liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,700.00
Balance To Be Applied To Respondents Fee Below	= \$ 500.00

Respondents RBC Dain Rauscher and John F. "Jack" Cashman are jointly and severally liable for:

<u>Forum Fees</u>	= \$1,350.00
<u>Total Fees</u>	= \$1,350.00
<u>Less payments</u>	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 850.00

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**ARBITRATION PANEL**

Lawrence R. Maxwell, Jr., Esq. - Public Arbitrator, Presiding Chair  
Donald C. Hood - Public Arbitrator  
Beverly W. McKemie - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

*LR Maxwell Jr.*

Lawrence R. Maxwell, Jr., Esq.  
Public Arbitrator, Presiding Chair

12-4-06

Signature Date

Donald C. Hood  
Public Arbitrator

Signature Date

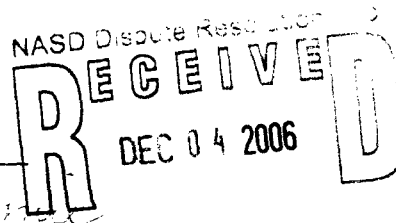
Beverly W. McKemie  
Non-Public Arbitrator

Signature Date

12/29/06 *LM*

Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 05-04412  
Stipulated Award Page 6 of 6



Beverly W. McKemie

Beverly W. McKemie  
Non-Public Arbitrator

12-29-2006  
Signature Date

12/29/06 Maw

Date of Service (For NASD office use only)