

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

DEPT. OF COMMERCE
JUL 5 1990

In the Matter of the Arbitration Between)

Arlene Keinert, individually and as)
guardian litem for Jeri Anne Keinert)
Claimants)

and)

Robert W. Baird & Co. and)
Robert T. Wellman)

Respondents)

ARBITRATION-CHICAGO

CASE NO. 88-03065

CASE SUMMARY

In a claim filed with the NASD on or about September 30, 1989, Claimant Arlene Keinert, individually and as guardian ad litem for Jeri Anne Keinert ("the Keinerts") asserted the following causes of action against Respondents Robert W. Baird, Inc. ("Baird") and Richard T. Wellman ("Wellman"):

1. Breach of fiduciary duty;
2. Fraudulent inducement;
3. Violation of Section 12(1) of the Securities Act of 1933 and Wisconsin Statute Section 551.21(1);
4. Violation of Section 12(2) of the Securities Act of 1933 and Wisconsin Statute Section 551.21(2);
5. Violation of Section 10(b) of the Securities and Exchange Act of 1934 and Wisconsin Statute Section 551.41;
6. Breach of Contract;
7. Negligence; and,
8. Misrepresentation.

The Keinert's alleged that Wellman offered and sold unregistered securities in R.T. Wellman & Associates, Inc. and Maranth Corporation. In connection with this activity the Keinerts alleged that Wellman misrepresented or omitted to disclose certain material information regarding these securities. The Keinerts alleged that Baird failed to properly supervise its agent, Wellman, in connection with the foregoing activities.

Baird, in its answer, either denied the allegations asserted in the claim or stated that it lacked knowledge or information sufficient to form a belief as to the truth of the allegations. Baird also asserted certain affirmative defenses, including but not limited to, estoppel, applicable statutes of limitations time bar the claims, the claims fail because Baird owed the Keinerts no fiduciary duty with regard to any investment in R.T. Wellman & Associates or Maranth Corporation and that Wellman acted outside of the scope of his authority while employed by Baird.

Wellman did not file an answer to the statement of claim.

RELIEF REQUESTED

The Keinerts requested compensatory damages from Wellman and Baird, jointly and severally, in the amount of \$107,303.11, interest at the statutory rate until the award is paid, attorney's fees and exemplary damages of \$250,000, jointly and severally from Baird and Wellman.

Baird requested dismissal of the claim in its entirety plus an award of costs and attorney's fees incurred by Baird to defend this action.

AWARD

On Wednesday, April 18 and Thursday, April 19, 1990 in Milwaukee, Wisconsin during a hearing lasting three (3) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on April 16, 1988 by Claimants Arlene and Jeri Anne Keinert and on April 18, 1988 by Glen F. Hackman on behalf of Respondent Robert W. Baird and Co., Inc.

Respondent Wellman did not file a submission agreement, answer the claim or appear at the hearing. Wellman was ordered to arbitration pursuant to a court order dated March 14, 1988. Additionally, Wellman is obligated to arbitrate this matter at the insistence of a public customer pursuant to Section 12 of the NASD Code. Wellman did not appear at the hearing but the panel determined to proceed against him in his absence pursuant to Section 29 of the NASD Code. The panel determined it had jurisdiction over Wellman and that he had received adequate notice of the hearing in accordance with Section 25 and 26 of the NASD Code.

The arbitration panel, having considered the pleadings, the testimony, the evidence presented at the hearing, and the post hearing briefs submitted on behalf of the Keinerts and Baird, has decided in full and final resolution of the issues submitted for determination as follows:

ARLENE KEINERT'S CLAIM

1. Arlene Keinert's claim asserted against Baird shall be and is hereby dismissed in its entirety;
2. Wellman is liable for and shall pay to Arlene Keinert, the sum of Forty Thousand Dollars and No Cents (\$40,000);
3. Pre-judgement interest at the rate of 5% is awarded on the above stated sum from and inclusive of April 1, 1986 to and inclusive of the date the award is paid;
4. Wellman is also liable for and shall pay to Arlene Keinert the sum of \$125,000 as punitive damages. In awarding this sum of punitive damages, the panel considered the parties post-hearing briefs on this point. Wellman did not brief this issue since he did not appear at the hearing. However, Wellman was notified of his opportunity to brief this issue and Baird briefed the issue as one of the respondents in this matter.

JERI ANNE KEINERT'S CLAIM

5. Jeri Anne Keinert's claim asserted against Baird shall be and is hereby dismissed in its entirety;
6. Wellman is liable for and shall pay to Jeri Anne Keinert the sum of Fifty-eight Thousand Five Hundred Thirty-six Dollars and Ninety Cents (\$58,536.90);
7. Pre-judgement interest is awarded on the above stated sum from and inclusive of April 1, 1986 to and inclusive of the date the award is paid;
8. Wellman is also liable for and shall pay to Jeri Anne Keinert the sum of \$125,000 in punitive damages. In awarding this sum of punitive damages the panel considered the parties post-hearing briefs on this point. Wellman did not brief this issue since he did not appear at the hearing. However, Wellman was notified of his opportunity to brief this issue and Baird briefed the issue as one of the respondents in this matter;

9. Wellman is also liable and shall pay to the Keinerts, jointly, the sum of \$7,500 as their reasonable attorney's fees. The panel felt it had the authority to award attorney's fees based on the parties post-hearing briefs. Again, although Wellman did not submit a brief he was given the opportunity to do so and Baird briefed this issue as one of the respondents;
10. Baird shall bear its own costs, expenses and attorney's fees incurred in this matter;
11. The other parties shall each bear their own costs and expenses not specifically enumerated elsewhere in this award; and
12. Pursuant to Section 43(c) of NASD Code of Arbitration Procedure, the NASD shall refund the \$500.00 filing fee paid to the NASD by the Keinerts and Baird is assessed the sum of \$1,500 as forum fees.

BY THE PANEL

Dated: _____

S/S _____
Mr. Ewald L. Moerke, Jr.
Presiding Chair

Dated: _____

S/S _____
Emanuel V. Gumina, Esq.

Dated: 7/2/90 _____

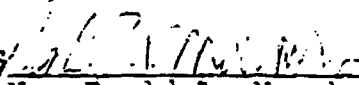
S/S [Signature]
John H. Wolf, III

Dated Served by NASD: _____

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Presiding Chair

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S/S

Emanuel V. Gumina, Esq.

Dated: _____

S/S

John H. Wolf, III

Dated Served by NASD: 7/17/90