

AWARD

NASD Regulation, Inc. Office of Dispute Resolution

In the Matter of the Arbitration Between

Bruce Summerer

Claimant,

v.

Case Number 96-01544

Robert W. Baird & Co., Inc.

Respondent.

REPRESENTATION OF PARTIES

Claimant Bruce Summerer ("Claimant") was represented by Bruce M. Bieneman, Esq. of Cholette, Perkins & Buchanan located in Grand Rapids, Michigan.

Respondent Robert W. Baird & Co., Inc. ("Respondent") was represented by Boyd A. Henderson, Esq. of Miller, Johnson, Snell & Cumiskey located in Grand Rapids, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about March 26, 1996.

The Amended Statement of Claim was filed on or about May 9, 1996.

Claimant's Submission Agreement was signed on April 2, 1996.

The Statement of Answer/ Response to the Amended Statement of Claim was filed on or about July 30, 1996.

Respondent's Submission Agreement was signed on July 25, 1996 by Deborah J. Fabritz, Associate General Counsel of Robert W. Baird & Co., Inc.

HEARING INFORMATION

The hearing was held on February 5, 1997 for two (2) sessions in Southfield, Michigan.

CASE SUMMARY

Claimant alleged that he was a stockbroker with Respondent. Claimant asserted that, in the fall of 1988, the Claimant met with his "boss," James Rauh ("Rauh"), to discuss Claimant's compensation in connection with the Leveraged Buyout ("LBO") of Empire Distributing. Claimant contended that, at the time of the meeting, Rauh said that the Claimant would receive more than 20% commission on the Empire Distributing LBO. Claimant maintained that the Respondent only paid the Claimant 20% commission.

Respondent denied all liability to Claimant in its Statement of Answer. Respondent alleged that Rauh denied having promised or guaranteed a larger percentage for the reason that he did not have the authority to set a higher percentage. Respondent contended that Claimant received a check from Respondent without expressing any objection until he filed a complaint in circuit court almost six years later.

RELIEF REQUESTED

Claimant requested damages in the amount of at least \$129,600.

Respondent requested dismissal of Claimant's claim with prejudice and the award of costs and attorney fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed 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 NASD Regulation, Inc. Office of Dispute Resolution.

AWARD

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

- (1) That the Statement of Claim is dismissed in its entirety with prejudice; and
- (2) That other than forum fees, which are addressed below, all other claims and requests for relief not specifically awarded here are, and each of them, hereby dismissed in their entirety with prejudice.

FORUM FEES

Pursuant to §10205(c) of the NASD Code of Arbitration Procedure, NASD Regulation, Inc. Office of Dispute Resolution shall retain the non-refundable filing fee in the amount of \$500 and shall retain as forum fees the hearing session deposit in the amount of \$750 previously deposited with NASD Regulation, Inc. Office of Dispute Resolution by the Claimant.

Respondent Robert W. Baird & Co., Inc. is liable for and shall pay forum fees in the amount of \$750.

Fees are payable to NASD Regulation, Inc. Office of Dispute Resolution.

Concurring Arbitrators' Signatures

\s\ Terry F. Peppard, Esq.

Terry F. Peppard, Esq.

Chairman

Industry Arbitrator

February 21, 1997

Dated:

\s\ Gail E. Faulk

Gail E. Faulk

Panelist

Industry Arbitrator

February 11, 1997

Dated:

\s\ James F. Mooney

James F. Mooney

Panelist

Industry Arbitrator

February 11, 1997

Dated:

For NASD Regulation use only:
Date award served on the parties:

February 25, 1997