

**N.A.S.D. REGULATION, INC. AWARD****NASD Regulation, Inc. Office of Dispute Resolution****In the Matter of the Arbitration Between****Names of Claimants**

Michael C. Williams and M. Elizabeth Williams

96-04873

**Names of Respondents**

Robert W. Baird & Co., Inc.  
Thomas I. Linzmeier

**REPRESENTATION**

For Claimants: Patrick A. Davis, Esq. of the law firm of Patrick A. Davis, P.A., Clearwater, Florida.

For Respondents: Gregory G. Wille, Esq. of the law firm of Wrenn, Wille, Gregory & Lundeen, Milwaukee, Wisconsin.

**CASE INFORMATION**

Statement of Claim was filed: November 1, 1996.

Claimants' Submission Agreement was signed: October 26, 1996.

Joint Statement of Answer was filed by Respondents: February 4, 1997.

Respondent Robert W. Baird & Co., Inc.'s ("Baird") Submission Agreement was signed: December 23, 1996.

Respondent Thomas I. Linzmeier's ("Linzmeier") Submission Agreement was signed: December 30, 1996.

**HEARING INFORMATION**

The evidentiary hearing was conducted on September 9 and 10, 1998 in Tampa, Florida, lasting four (4) sessions.

**CASE SUMMARY**

Claimants alleged the following: Respondents failed to exercise due diligence and to comply with their fiduciary responsibility to the Claimants by placing their portfolio in speculative, high risk securities. The Claimants are conservative individuals who communicated their primary investment objectives of preservation of principle and safety to Respondent Linzmeier. Respondent Linzmeier took a conservatively invested portfolio, which was primarily invested in government bonds and mutual funds,

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and placed these monies in concentrated positions in high risk stocks totally in contravention of the suitability guidelines and the Claimants' investment objectives. As a result, the Claimants suffered significant losses during the short time that their account was open in 1996. The Claimants further alleged that Respondent Linzmeier executed many of the trades without authorization, using discretionary authorization that was secured from the Claimants under false pretenses. Moreover, the Claimants alleged that Respondent Linzmeier fraudulently completed the new account forms and new account documentation. The Claimants' account value dropped precipitously and in October of 1996, the account was closed.

Respondents denied the allegations in the Statement of Claim and alleged that Respondent Linzmeier made appropriate inquiries with regard to the Claimants' financial circumstances, investment experiences, investment goals, objectives and desires, at a meeting conducted when the account was opened. Respondents further alleged that, in that meeting, the Claimants expressed the desire to assume greater investment risk in order to pursue greater return. Claimants rejected more conservative investment strategies and options presented to them and clearly expressed interest in a strategy of investing in individual out-of-favor stocks. Respondents alleged that the transactions made in the Claimants' account were consistent with the investment goals and strategies that the Claimants knowingly agreed to pursue. Discretion was properly utilized in eleven of the sixteen transactions that occurred in the account pursuant to the unlimited trading authorization that the Claimants signed because they anticipated Respondent Linzmeier would have difficulty reaching them. Respondents further alleged that the damages claimed by the Claimants improperly failed to consider gains, included losses on transactions not made through Respondent Baird, and included depreciation that occurred after the Claimants had removed their account from Respondent Baird.

#### RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$30,000.00, punitive damages in the amount of \$60,000.00, plus interest and attorney's fees.

Respondents requested that the Statement of Claim be dismissed in its entirety and that Claimants pay all costs associated with this proceeding.

#### 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 remains on file with the 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:

Claimants' requests for relief are denied in their entirety.

Each party shall bear their respective attorneys' fees.

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#### FORUM FEES

Pursuant to Rule 10332(c) of the NASD Code of Arbitration Procedure, forum fees in the sum of \$2,000.00 (four (4) sessions x \$500.00) are assessed as follows:

Respondents Baird and Linzmeier are assessed, jointly and severally, the sum of \$2,000.00.

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

#### OTHER FEES

Pursuant to Rule 10332(a) of the NASD Code Of Arbitration Procedure, Claimants have paid to NASD Regulation, Inc. the \$150.00 claim filing fee.

Pursuant to Rule 10333 of the NASD Code of Arbitration Procedure, Respondent Baird shall pay to NASD Regulation, Inc. the \$300.00 member surcharge previously invoiced.

Pursuant to Rule 10319 of the NASD Code of Arbitration Procedure, Claimants have paid to NASD Regulation, Inc. the \$500.00 postponement fee for postponement of the August 18, 19 and 20, 1997 hearings.

#### Concurring Arbitrators' Signatures

##### Public/Industry

/s/  
Thomas E. Greef  
Chairperson

Public

/s/  
Edward M. Panzica, Esq.

Public

/s/  
Elijah D. Armstrong, Jr.

Industry

Date of Decision: November 10, 1998