

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

Alex Ali, Claimant v. Patrick James Wilde, II, Todd Bauman, Bradford Barker, Aragon Financial Services, Inc., Respondents

Aragon Financial Services, Inc., Cross-Claimant v. Patrick James Wilde, II and Todd Charles Bauman, Cross-Respondents

Aragon Financial Services, Inc., Third-Party Claimant v. RFCA Financial Services, Inc. and Robert Tretiak, Third-Party Respondents

Case Number: 99-00458

Hearing Site: Las Vegas, Nevada

REPRESENTATION OF PARTIES

For Claimant Alex Ali and Third-Party Respondents
Robert Tretiak and RFCA Financial Services:

Robert Tretiak
RFCA Financial Services
Las Vegas, Nevada

For Respondent Aragon Financial Services:

James K. Autry, Esq.
Nash & Edgerton
Hermosa Beach, California

For Respondent Bradford Barker:

Bradford Barker
In Pro Per
Phoenix, Arizona

For Respondents Todd Bauman and
Patrick James Wilde, II:

Thomas C. Cook, Esq.
Thomas C. Cook &
Associates
Las Vegas, Nevada

CASE INFORMATION

Statement of Claim received on: February 1, 1999

Claimant's Uniform Submission Agreement signed: January 22, 1999

Statement of Answer filed by Respondent Aragon Financial Services, Inc.: June 9, 1999

Motion to Dismiss All Claims Against Respondent Aragon Financial Services, Inc. and For Sanctions Against Claimant filed by Respondent Aragon Financial Services, Inc.: June 9, 1999

Statement of Answer filed by Respondent Bradford Barker: June 9, 1999

Statement of Answer filed by Respondent Todd Bauman: June 9, 1999

Statement of Answer filed by Respondent Patrick James Wilde, II: June 9, 1999

Respondent Aragon Financial Services, Inc.'s Uniform Submission Agreement signed: May 14, 1999

Reply Brief in Support of Respondent Aragon Financial Services, Inc.'s Motion to Dismiss and For Sanctions filed: June 22, 1999

Claimant's Opposition to Motion to Dismiss and For Sanctions filed: July 20, 1999

Reply of Respondent Aragon Financial Services, Inc. in support of Motion to Dismiss and For Sanctions filed: August 16, 1999.

Respondent Bradford Barker's Uniform Submission Agreement signed: August 23, 1999

Respondent Todd Bauman's Uniform Submission Agreement signed: August 20, 1999

Respondent Patrick James Wilde, II's Uniform Submission Agreement signed: August 20, 1999

Cross-Claim and Third-Party Claim filed by Aragon Financial Services, Inc.: June 1, 2000

RFCA Financial Services, Inc. and Robert Tretiak's Motion to Dismiss and For Sanctions filed: June 14, 2000

Opposition to RFCA Financial Services, Inc. and Robert Tretiak's Motion to Dismiss and For Sanction filed: June 26, 2000

Aragon Financial Services, Inc.'s Post Hearing Submission filed: August 9, 2000

RFCA Financial Services, Inc. and Robert Tretiak's Post Hearing Submission filed: August 9, 2000

RFCA Financial Services, Inc. and Robert Tretiak's Post Hearing Submission regarding attorney's fee cases filed: August 31, 2000

Aragon Financial Services, Inc.'s Post Hearing Submission regarding attorney's fee cases filed: September 1, 2000

CASE SUMMARY

Claimant alleged that the Respondents made deceptive comments in connection with the unsuitable sale of Olympiad 12% Cumulative Preferred Stock.

All Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim. Each Respondent denied responsibility for any wrongdoing given the nature of the relationship with Claimant.

Cross-Claimant and Third-Party Claimant Aragon Financial Services, Inc. alleged misrepresentations by Cross-Respondent Robert Tretiak resulted in the involvement of the Third-Party Claimant in this case despite its lack of involvement in the purchase of preferred stock by Claimant.

RELIEF REQUESTED

Claimant requested \$13,333.00 in compensatory damages, \$26,666.00 in treble damages, interest, attorneys fees, and punitive damages.

Respondents Patrick James Wilde, II, Todd Bauman, Bradford Barker and Aragon Financial Services, Inc. requested dismissal of the Claimant's Statement of Claim in its entirety, costs and attorney's fees, and the assessment of all forum fees against Claimant.

Cross-Claimant and Third-Party Claimant Aragon Financial Services, Inc. sought compensation for total equitable indemnity, comparative partial indemnity and contribution. Cross-Claimant and Third-Party Claimant Aragon Financial Services, Inc. also requested attorney's fees and costs, compensation for time, damage to reputation, and full indemnification from any judgement.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by Cross-Claimant and Third-Party Claimant Aragon Financial Services, Inc., the undersigned Panel determined that Cross-Respondents Patrick James Wilde, II and Todd Bauman and Third-Party Respondents RFCA Financial Services, Inc. and Robert Tretiak were properly served with the Cross-Claim and Third-Party Claim.

Third-Party Respondents RFCA Financial Services, Inc. and Robert Tretiak did not file with the NASD Dispute Resolution, Inc. a properly executed submission agreement to arbitrate but are required to submit to arbitration pursuant to the Code, and having appeared at the hearing, are bound by the determination of the Panel on all issues submitted.

At the time of hearing, the Panel accepted the submission of Aragon Financial Services, Inc.'s Third-Party and Cross-Claim.

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.

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, and the parties' post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Patrick James Wilde, II and Bradford Barker are jointly and severally liable to and shall pay Claimant Alex Ali the sum of \$13,333.00 in compensatory damages.
2. Respondents Patrick James Wilde, II and Bradford Barker are jointly and severally liable to and shall pay Claimant Alex Ali the sum of \$3,667.00 in interest.
3. All of the Claimant's claims against Todd Charles Bauman and Aragon Financial, Inc. are denied in their entirety.
4. Claimant's request for punitive damages is denied.
5. Respondent Aragon Financial Service, Inc.'s Cross-Claim against Patrick James Wilde, II and Todd Bauman is denied in its entirety.
6. Third-Party Respondents RFCA Financial Services, Inc. and Robert Tretiak are jointly and severally liable to and shall pay Third-Party Claimant Aragon Financial Services, Inc. the sum of \$10,000.00 in attorney's fees pursuant to the authorities cited by Aragon Financial Services, Inc.
7. The parties shall bear their respective costs, including attorney's fees, except as noted above.
8. All other relief not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. received or will collect the non-refundable filing fees for each claim as follows:

Initial Claim filing fee = \$ 120.00

Respondent Aragon Financial Services, Inc.'s Cross-Claim and
Third-Party Claim filing fee = \$ 500.00

Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the event of the dispute.

The member firm, Aragon Financial Services, Inc., is a party and the following fees are assessed:

Member Surcharge = \$ 800.00

Pre-Hearing Process Fee = \$ 600.00

Hearing Process Fee = \$ 1,000.00

Total Member Fees = \$ 2,400.00

The member firm, RFCA Financial Services, Inc., is a party and the following fees are assessed:

Member Surcharge = \$ 800.00

Pre-Hearing Process Fee = \$ 600.00

Hearing Process Fee = \$ 1,000.00

Total Member Fees = \$ 2,400.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair/Panel. The following fees are assessed:

(1) Pre-hearing conference session with a single arbitrator @ \$ 300.00/session = \$ 300.00
Pre-hearing conference: July 7, 2000 1 session

(2) Pre-hearing conference sessions with the Panel @ \$400.00/session = \$ 800.00
Pre-hearing conferences: February 10, 2000 1 session
June 26, 2000 1 session

Total Pre-Hearing Conference Fees = \$ 1,100.00

(7) Hearing sessions @ \$400.00/session (Customer rate) = \$ 2,800.00
@ \$600.00/session (Industry rate - see note) = \$ 4,200.00

Hearing sessions: July 25, 2000 2 sessions
July 26, 2000 3 sessions
July 27, 2000 2 sessions

Total Hearing Session Fees @ Customer rate = \$ 2,800.00
@ Industry rate (see note) = \$ 4,200.00

1. The Panel assessed \$550.00 (50%) of the **pre-hearing conference fees** to Claimant.
2. The Panel assessed \$550.00 (50%) of the **pre-hearing conference fees** jointly and severally to Respondents Patrick James Wilde, II, Todd Bauman, Bradford Barker, and Aragon Financial Services, Inc.
3. The Panel assessed \$1,400.00 (50%) of the **hearing session fees** at the Customer rate to the Claimant.
4. The Panel assessed \$2,100.00 (50%) of the **hearing session fees** at the Industry rate jointly and severally to the Respondents Patrick James Wilde, II, Todd Bauman, Bradford Barker, and Aragon Financial Services, Inc. and Third-Party Respondents RFCA Financial Services, Inc. and Robert Tretiak.

Note: The hearing session rate increased on July 25, 2000 to \$600.00 per session for Industry members following the Panel's order permitting the filing of the Cross-Claim/Third Party Claim.

Fee Summary

1. Claimant Alex Ali is charged with the following fees and costs:

| | |
|---|----------------------|
| Initial Filing Fee | = \$ 120.00 |
| Pre-Hearing Forum Fees | = \$ 550.00 |
| <u>Hearing Forum Fees</u> | <u>= \$ 1,400.00</u> |
| Total Fees | = \$ 2,070.00 |
| <u>Less payments</u> | <u>= \$ (520.00)</u> |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 1,550.00 |

2. Cross-Claimant and Third-Party Claimant Aragon Financial Services, Inc. is charged with the following fees and costs:

| | |
|--|------------------------|
| Cross-Claim and Third-Party Claim Filing Fee | = \$ 500.00 |
| <u>Member Fees</u> | <u>= \$ 2,400.00</u> |
| Total Fees | = \$ 2,900.00 |
| <u>Less payments</u> | <u>= \$ (2,400.00)</u> |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 500.00 |

3. Third-Party Respondent RFCA Financial Services, Inc. is charged with the following fees and costs:

| | |
|---|---------------------|
| Member Fees | = \$ 2,400.00 |
| <u>Less payments</u> | <u>= \$ (48.35)</u> |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 2,351.65 |

4. Respondents Patrick James Wilde, II, Todd Bauman, Bradford Barker, and Aragon Financial Services, Inc. are charged jointly and severally with the following fees and costs:

| | |
|---|--------------------|
| <u>Pre-Hearing Forum Fees</u> | <u>= \$ 550.00</u> |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 550.00 |

5. Respondents Patrick James Wilde, II, Todd Bauman, Bradford Barker, and Aragon Financial Services, Inc. and Third-Party Respondents RFCA Financial Services, Inc. and Robert Tretiak are charged jointly and severally with the following fees and costs:

| | |
|---|----------------------|
| <u>Hearing Forum Fees</u> | <u>= \$ 2,100.00</u> |
| Balance Due NASD Dispute Resolution, Inc. | = \$ 2,100.00 |

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All balances are payable to NASD Dispute Resolution, Inc. and are due within 30 days of the Award's date of service.

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Concurring Arbitrators' Signatures

Thomas L. Flattery
Thomas L. Flattery, Esq.
Chair, Public Arbitrator

September 13, 2000
Signature Date

Lester G. Stiel, Esq.
Public Arbitrator

Signature Date

Gary A. Hooker
Non-Public Arbitrator

Signature Date

September 14, 2000
Date of Service

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Concurring Arbitrators' Signatures

Thomas L. Flattery, Esq.
Chair, Public Arbitrator

Signature Date



Lester G. Stiel, Esq.
Public Arbitrator

9/13/00

Signature Date

Gary A. Hooker
Non-Public Arbitrator

Signature Date

Gary A. Hooker
Non-Public Arbitrator

Date of Service

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Concurring Arbitrators' Signatures

Thomas L. Flattery, Esq.
Chair, Public Arbitrator

Signature Date

Lester G. Stiel, Esq.
Public Arbitrator

Signature Date



Gary A. Hooker
Non-Public Arbitrator


9/13/00

Signature Date

Gary A. Hooker
Non-Public Arbitrator

Date of Service