

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Peter A. Bouchard

and

99-01198
Chicago, Illinois

Name of Respondents

Baxter Banks & Smith, Ltd.
Michael Anthony Boston
Kevin John Ruggiero
Francis Martin McDermott
Maurizio Virginio Grammatica
John McGowan, III
Charles Masi
Robert John Ogilvie

REPRESENTATION OF PARTIES

Peter A. Bouchard ("Claimant") was represented by Arne R. Rode, Esq., Chicago, Illinois.

Baxter Banks & Smith, Ltd. ("Respondent Baxter"), John McGowan, III ("Respondent McGowan") and Charles Masi ("Respondent Masi") were represented by Gerald Saltarelli, Esq., and Michael Stick, Esq., Butler, Rubin, Saltarelli & Boyd, Chicago, Illinois.

Michael Anthony Boston ("Respondent Boston") was represented by John J. Muldoon, III, Esq., Muldoon & Flynn, Chicago, Illinois.

Kevin John Ruggiero ("Respondent") appeared *pro se*.

Francis Martin McDermott ("Respondent McDermott") was represented by Michael Stick, Esq., Butler, Rubin, Saltarelli & Boyd, Chicago, Illinois.

Maurizio Virginio Grammatica ("Respondent Grammatica") and Robert John Ogilvie ("Respondent Ogilvie") were represented by David J. Feingold, Esq., Feingold & Kam, Palm Beach Gardens, Florida.

CASE INFORMATION

The Statement of Claim was filed on or about March 15, 1999. Submission Agreement of Claimant Peter A. Bouchard was signed on March 8, 1999.

Statement of Answer was filed by Respondents Baxter Banks & Smith, Ltd., Francis Martin McDermott, Maurizio Virginio Grammatica, John McGowan, III, Charles Masi and Robert John Ogilvie on or about July 20, 1999. Amended Answer to Statement of Claim was filed on or about July 30, 1999. Submission Agreement of Respondent Baxter Banks & Smith, Ltd. was signed on July 8, 1999 by F. Martin McDermott. Submission Agreement of Respondent Francis Martin McDermott was signed on July 8, 1999. Submission Agreement of Respondent Maurizio Virginio Grammatica was signed on July 8, 1999. Submission Agreement of Respondent John McGowan, III was signed on July 8, 1999. Submission Agreement of Respondent Charles Masi was signed on July 12, 1999. Submission Agreement of respondent Robert John Ogilvie was signed on July 8, 1999.

Statement of Answer was filed by Respondent Michael Anthony Boston on or about August 4, 1999.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty and misrepresentation.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim.

RELIEF REQUESTED

Claimant requested an award of compensatory damages in the amount of \$150,000 and punitive damages in the amount of \$300,000.

Respondents Baxter Banks & Smith, Ltd., Francis Martin McDermott, Maurizio Virginio Grammatica, John McGowan, III, Charles Masi and Robert John Ogilvie pray for entry of an award in their favor.

Respondent Michael Anthony Boston requested that the claims asserted against him be dismissed.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made by/on behalf of the Claimant, the undersigned arbitrators have determined that Respondent Kevin John Ruggiero has been properly served with the Statement of Claim pursuant to Rule 10302 and Rule 10314 of the NASD Code of Arbitration Procedure (the "Code"). The undersigned arbitrators have also determined that Respondent Kevin

John Ruggiero had received due notice of the hearing as required under Rule 10315 of the Code and that arbitration of the matter would proceed pursuant to Rule 10318 of the Code.

Respondents Michael Anthony Boston and Kevin John Ruggiero did not file with the NASD Dispute Resolution, Inc. properly executed submissions to arbitration but are required to submit to arbitration pursuant to Rule 10301 of the Code and are therefore bound by the determination of the arbitration panel on all issues submitted.

At the hearing, Respondents asserted a Motion to Dismiss. After considering the pleadings, the testimony and evidence presented to that point and the arguments presented on behalf of the parties, the undersigned arbitrators granted the Motion to Dismiss as to Respondents McGowan, Masi and Ogilvie and denied as the other Respondents.

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 the NASD Dispute Resolution, Inc. (the "NASD").

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. Respondents Baxter Banks & Smith, Ltd., Kevin John Ruggiero and Francis Martin McDermott shall be and hereby are jointly and severally liable for and shall pay to Claimant Peter A. Bouchard the sum of \$143,000.00 (One Hundred Forty Three Thousand Dollars) as compensatory damages.
2. The undersigned arbitrators find that insufficient evidence was presented to make a finding of liability against Respondents Michael Anthony Boston and Maurizio Virginio Grammatica.
3. Respondent Kevin John Ruggiero shall be and hereby is solely liable for and shall pay to the Claimant Peter A. Bouchard the sum of \$100,000.00 (One Hundred Thousand Dollars) as punitive damages.
4. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.

5. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$200.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is Baxter Banks & Smith, Ltd.

Member surcharge = \$1,500.00
Pre-hearing process fee = \$600.00
Hearing process fee = \$2,500.00

Adjournment Fees

Adjournments requested during these proceedings:

April 12 and 13, 2000 adjournment requested by party Michael Anthony Boston = \$ 750.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$750.00 = \$ 750.00
Pre-hearing conference(s): January 7, 2000 1 session

Two (2) Hearing sessions x \$750.00 = \$1,500.00
Hearing Date(s): June 21, 2000 2 sessions
Total Forum Fees = \$2,250.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees jointly and severally to Respondents Baxter Banks & Smith, Ltd., Kevin John Ruggiero and Francis Martin McDermott.

Fee Summary

Claimant, Peter A. Bouchard, shall be and hereby is liable for:

Initial Filing Fee	= \$ 200.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$ 200.00
<u>Less payments</u>	= \$ 950.00
Balance to be refunded by NASD Dispute Resolution, Inc.	= \$ -750.00

Respondent, Baxter Banks & Smith, Ltd., shall be and hereby is liable for:

Member Fees	= \$4,600.00
<u>Forum Fees</u>	= \$ 0.00
Total Fees	= \$4,600.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$4,600.00

Respondent Michael Anthony Boston, shall be and hereby is liable for:

<u>Postponement Fee</u>	= \$ 750.00
Total Fees	= \$ 750.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 750.00

Respondents, Baxter Banks & Smith, Ltd., Kevin John Ruggiero and Francis Martin McDermott, shall be and hereby are jointly and severally liable for:

<u>Forum Fees</u>	= \$2,250.00
Balance Due NASD Dispute Resolution, Inc.	= \$2,250.00

All balances are due to NASD Dispute Resolution, Inc.

Dated:

/s/ Linda R. Crane
Linda R. Crane, Esq.
Public Arbitrator, Presiding Chair

September 26, 2000

/s/ Richard A. Crane
Richard A. Crane, Esq.
Public Arbitrator

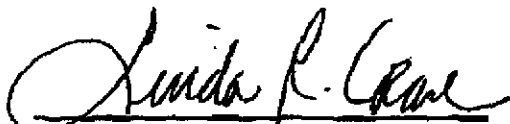
September 25, 2000

/s/ Stephen W. Mack
Stephen W. Mack
Industry Arbitrator

September 26, 2000

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 99-01198
Award Page 6 of 6

All balances are due to NASD Dispute Resolution, Inc.



Linda R. Crane, Esq.
Public Arbitrator, Presiding Chair

Dated:

9/26/2000

Richard A. Crane, Esq.
Public Arbitrator

Stephen W. Mack
Industry Arbitrator

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 99-01198
Award Page 6 of 6

All balances are due to NASD Dispute Resolution, Inc.

Dated:

Linda R. Crane, Esq.
Public Arbitrator, Presiding Chair

Richard A. Crane, Esq.
Public Arbitrator

9/25/00

Stephen W. Mack
Industry Arbitrator

NASD Regulation, Inc. Office of Dispute Resolution
Arbitration No. 99-01198
Award Page 6 of 6

All balances are due to NASD Dispute Resolution, Inc.

Dated:

Linda R. Crane, Esq.
Public Arbitrator, Presiding Chair

Richard A. Crane, Esq.
Public Arbitrator



Stephen W. Mack
Industry Arbitrator

9/16/2000

Industry Arbitrator