

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Stephen and Amy Gionis

Case No. 99-01371

Name of Respondent

Robert W. Baird & Co. Incorporated

REPRESENTATION OF PARTIES

For Stephen and Amy Gionis, hereinafter collectively referred to as "Claimants": John F MacLennan, Esq. and Jon L. Swergold, Esq. of Smith Hulsey & Busey, Jacksonville, FL:

For Robert W. Baird & Co. Incorporated, hereinafter referred to as "Respondent": Gregory G. Wille, Esq. of Wille, Gregory & Lundeen, Milwaukee, WI.

CASE INFORMATION

Statement of Claim tiled on or about: March 22, 1999.

Claimants signed the Uniform Submission Agreement: March 18, 1999.

Response to Statement of Claim and Counterclaim filed by Respondent on or about: May 19, 1999.

Respondent signed the Uniform Submission Agreement: April 21, 1999.

CASE SUMMARY

Claimants contend that in November 1998 through the middle of December 1998, Stephen Kilpatrick ("Kilpatrick"), a First Vice President of Respondent and close friend of the Claimants, made several misrepresentations regarding an investment he proposed the Claimants make in Amazon.com. Kilpatrick told the Claimants the maximum loss that they could sustain would be limited to their initial investment of \$8,000.00; Kilpatrick would place a "stop loss" of \$8,000.00 on the trade; and, there was a high probability that the investment would be profitable. Claimants contend that Respondent is liable to them pursuant to Chapter 551 of the Wisconsin Statutes; under strict responsibility; and, for either fraud or negligent misrepresentation. Claimants further contend that when they refused to meet a \$600,000.00 margin call, Respondent wrongfully converted their account by liquidating it. Claimants contend that Respondent is liable for negligently hiring and training Kilpatrick.

Unless specifically admitted in its Answer and Counterclaim, Respondent denied the allegations made in the Statement of Claim and alleged the following: Claimant Stephen Gionis, a financially sophisticated individual with an undergraduate degree in finance and an MBA, initiated the uncovered sales of Amazon.com calls on an unsolicited basis, after being fully warned that such transactions involved the potential for unlimited loss. Subsequently, the price of Amazon.com rose dramatically and Claimants advised Respondent that they could not meet the margin call. Claimants instructed Respondent to do what it thought appropriate to protect itself. Respondent executed covering purchases which left a debit balance of more than \$230,000.00. Respondent asserted a counterclaim for the debit balance of \$238,354.00 plus interest in the account.

RELIEF REQUESTED

Claimants requested compensatory and punitive damages totalling between \$500,000.00 and \$1,000,000.00, interest, costs, statutory damages, dismissal of the counterclaim, and attorneys' fees.

Respondent requested dismissal of the Statement of Claim plus compensatory damages on its counterclaim totalling \$238,354.60, interest, costs, and attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

On or about June 23, 2000, the parties filed a stipulation in which they agreed that Wisconsin law governs resolution of all claims and counterclaims in this matter. Further, the parties waived any objection to the jurisdiction of the Arbitration Panel to make an award of attorneys' fees.

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, the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimants' Statement of Claim is dismissed in its entirety.

Claimants' request for punitive damages is denied.

Claimants are liable on the counterclaim, jointly and severally, and shall pay to the Respondent compensatory damages in the sum of \$16,196.00 plus interest at the rate of twelve percent (12%) per annum which shall accrue from December 11, 1998 until the date of payment of the Award.

All other relief requests not specifically addressed herein are denied

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	= \$ 375.00
Counterclaim filing fee	= \$ 1,000.00

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, Robert W. Baird & Co. Incorporated, is a party.

Member surcharge	= \$ 2,000.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$ 3,500.00

Forum Fees and Assessments

The 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 \$1,200.00	= \$ 1,200.00
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Pre-hearing conference:	January 20, 2000	1 session
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Sixteen (16) Hearing sessions x \$1,200.00	= \$19,200.00
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Hearing Dates:	May 16, 2000	2 sessions
	May 17, 2000	2 sessions
	May 18, 2000	2 sessions
	December 5, 2000	2 sessions
	December 6, 2000	3 sessions
	December 7, 2000	3 sessions
	<u>December 8, 2000</u>	<u>2 sessions</u>

Total Forum Fees	= \$20,400.00
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The Panel has assessed \$3,565.92 of the forum fees jointly and severally to Claimants.

The Panel has assessed \$16,834.08 of the forum fees to Respondent.

Fee Summary

Claimants be and hereby are jointly and severally liable for

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 3,565.92
Total Fees	= \$ 3,940.92
<u>Less payments</u>	= \$ 1,575.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,365.92

Respondent be and hereby is solely liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 6,100.00
<u>Forum Fees</u>	= \$16,834.08
Total Fees	= \$23,934.08
<u>Less payments</u>	= \$ 8,225.00
Balance Due NASD Dispute Resolution, Inc.	= \$15,709.08

All balances are payable to NASD Dispute Resolution, Inc. and are due immediately upon receipt of the Award by the parties.

Concurring Arbitrators' Signatures

Frank J. Tepper, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/

Maurice M. Feller, Esq
Public Arbitrator

Signature Date

/s/

William G. Kline, III
Industry Arbitrator

Signature Date

January 19, 2001

Date of Service (For NASD-DR office use only)

Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 3,565.92
Total Fees	= \$ 3,940.92
Less payments	= \$ 1,575.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,365.92

Respondent be and hereby is entirely liable for:

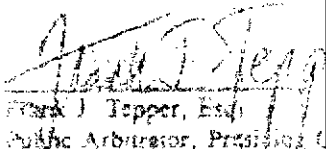
Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 6,100.00
Forum Fees	= \$16,834.08
Total Fees	= \$23,934.08
Less payments	= \$ 8,225.00
Balance Due NASD Dispute Resolution, Inc.	= \$15,709.08

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C


 Frank J. Tepper, Esq.
 Public Arbitrator, Presiding Chair

1-19-01
 Signature Date


 Frank J. Tepper, Esq.
 Public Arbitrator, Presiding Chair

Maurice M. Feller, Esq.
 Public Arbitrator

Signature Date

William G. Kline, III
 Industry Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 3,565.92
Total Fees	= \$ 3,940.92
<u>Less payments</u>	= \$ 1,575.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,365.92

Respondent be and hereby is solely liable for:

Counterclaim Filing Fee	= \$ 1,000.00
Member Fees	= \$ 6,100.00
<u>Forum Fees</u>	= \$16,834.08
Total Fees	= \$23,934.08
<u>Less payments</u>	= \$ 8,225.00
Balance Due NASD Dispute Resolution, Inc.	= \$15,709.08

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Maurice M. Feller, Esq.
Public Arbitrator

Signature Date

Maurice M. Feller, Esq.
Public Arbitrator

William G. Kline, III
Industry Arbitrator

Signature Date

Date of Service (For NASD-DR office use only)

Fee Summary

Claimants do and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
<u>Forum Fees</u>	= \$ 3,365.92
Total Fees	= \$ 3,940.92
<u>Less payments</u>	= \$ 1,375.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 2,365.92

Respondent do and hereby is solely liable for:

Commerclahn Filing Fee	= \$ 1,000.00
Member Fees	= \$ 6,100.00
<u>Forum Fees</u>	= \$ 16,534.08
Total Fees	= \$ 23,934.08
<u>Less payments</u>	= \$ 8,225.00
Balance Due NASD Dispute Resolution, Inc.	= \$ 15,709.08

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Public Arbitrator, Presiding Chair

Maurice M. Feller, Esq.
Public Arbitrator

Signature Date

Maurice M. Feller, Esq.
Public Arbitrator

William G. Kline, III
Industry Arbitrator

1/18/2001
Signature Date

Date of Service (For NASD-DR office use only)