

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:
Dain Rauscher, Inc. vs. Fred Hoffman

Case Number: 99-02615

Hearing Site: Chicago, IL

REPRESENTATION OF PARTIES

Claimant, Dain Rauscher, Inc.: David M. Fogel, Esq., Dain Rauscher, Inc., Minneapolis, MN.

Respondent, Fred Hoffman: James J. Moylan, Esq., Arnstein & Lehr, Chicago, IL.

CASE INFORMATION

Statement of Claim filed by Claimant, Dain Rauscher, Inc. on or about: June 8, 1999

Claimant, Dain Rauscher, Inc. signed the Uniform Submission Agreement: June 2, 1999

Statement of Answer filed by Respondent, Fred Hoffman on or about: September 16, 1999

Respondent, Fred Hoffman signed the Uniform Submission Agreement: August 30, 1999

CASE SUMMARY

Claimant, Dain Rauscher, Inc. (Dain Rauscher) alleged that Respondent, Fred Hoffman (Hoffman) executed a promissory note on or about March 20, 1998 in return for payment of \$143,000.00. Hoffman agreed to repay the principal plus interest at a rate of 5.93 percent per annum, in five installments in the amount of \$28,600 on March 31, 1999, March 31, 2000, March 31, 2001, March 31, 2002 and March 31, 2003. Hoffman made no payments on the note and upon his termination of employment at Dain Rauscher, the entire amount of the note became due and payable. Hoffman's employment with Dain Rauscher ended in May of 1999.

Respondent, Hoffman denied the allegations of the Statement of Claim. Hoffman asserted the following affirmative defenses: the Statement of Claim failed to state a claim upon which relief could be granted, the Statement of Claim is barred by applicable statutes of limitation, the Statement of Claim is barred by the doctrines of laches, unclean hands and other equitable defenses.

RELIEF REQUESTED

Claimant, Dain Rauscher, Inc. requested:

Compensatory Damages	\$143,000.00
Punitive Damages	\$None
Interest	\$unspecified
Attorney's Fees	\$unspecified
Costs	\$unspecified
Other Costs	\$unspecified
Other Monetary/Non-Monetary Relief if any:	None

Respondent, Fred Hoffman requested:

Compensatory Damages	\$None
Punitive Damages	\$None
Interest	\$None
Attorneys' Fees	\$unspecified
Other Costs	\$unspecified
Other Monetary/Non-Monetary Relief if any:	Dismissal of the Claim

OTHER ISSUES CONSIDERED AND 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.

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:

1. Hoffman is liable for and shall pay to Dain Rauscher, the sum of \$114,400;
2. Dain Rauscher's claims for interest and attorney's fees are denied and dismissed in their entirety; and,
3. Accordingly, other than the forum fees and member fees set forth below, the parties shall each bear their respective costs and attorney's fees.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim 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 is Dain Rauscher, Inc.

Member surcharge = \$1,500.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$1,000.00

Adjournment Fees

Adjournments requested during these proceedings: None

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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One Initial Pre-hearing session with the panel x \$1125.00 = \$1,125.00
Pre-hearing conference: March 20, 2000 for 1 session

One Hearing session with the panel x \$1125.00 = \$1,125.00
Hearing Date: June 20, 2000 for 1 sessions

Total Forum Fees = \$2,250.00

1. The Arbitration panel has assessed \$1,125.00 of the forum fees to Dain Rauscher, Inc.

2. The Arbitration panel has assessed \$1,125.00 of the forum fees to Fred Hoffman.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

None.

Fee Summary

1. Claimant, Dain Rauscher, Inc., be and hereby is solely liable for:


Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 1,500.00
Pre-hearing Processing Fees	= \$ 600.00
Hearing Processing Fees	= \$ 2,500.00
Adjournment Fee	= \$ 0
Forum Fees	= \$ 1,125.00
<u>Administrative Costs</u>	= \$ 0
Total Fees	= \$ 6,725.00
<u>Less payments</u>	= \$ 6,725.00
Balance Due NASD Regulation, Inc.	= \$ 0

2. Respondent, Fred Hoffman, be and hereby is solely liable for:

Type Filing Fee	= \$ 0
Member Fees	= \$ 0
Adjournment Fee	= \$ 0
Forum Fees	= \$ 1,125.00
<u>Administrative Costs</u>	= \$ 0
Total Fees	= \$ 1,125.00
<u>Less payments</u>	= \$ 0
Balance Due NASD Regulation, Inc.	= \$ 1,125.00

Any balances owed are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signature(s)



Robert P. Scales, Esq.
Industry Arbitrator, Presiding Chair

8/30/00

Signature Date

Howard Suskin, Esq.
Industry Arbitrator

Signature Date

Susan Schleisner, Esq.
Industry Arbitrator

Signature Date

9/8/00

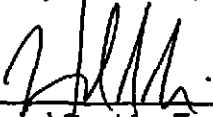
Date of Service
(For NASD office use only)

Any balances owed are due to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signature(s)

Robert P. Scales, Esq.
Industry Arbitrator, Presiding Chair

Signature Date



Howard Suskin, Esq.
Industry Arbitrator

8/22/00

Signature Date

Susan Schleisner, Esq.
Industry Arbitrator

Signature Date

9/8/00

Date of Service
(For NASD office use only)

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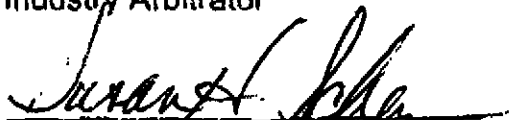
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Robert P. Scales, Esq.
Industry Arbitrator, Presiding Chair

Signature Date

Howard Suskin, Esq.
Industry Arbitrator

Signature Date



Susan Schleisner, Esq.
Industry Arbitrator

9-8-00
Signature Date

9/8/00
Date of Service
(For NASD office use only)