

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between:

James and Mina Faulkner, Claimants vs. Robert H. Taggart, Jr., Respondent.

Case Number: 99-05065

Hearing Site: Seattle, Washington

REPRESENTATION OF PARTIES

Claimants, James and Mina Faulkner, hereinafter referred to as "Claimants": James Faulkner, Kingston, Washington

Respondent, Robert H. Taggart, Jr., hereinafter referred to as "Respondent": Martin M. Berliner, Esq., Berliner Zisser Walter & Gallegos, Denver, Colorado

CASE INFORMATION

Statement of Claim filed on or about: November 8, 1999

Claimants' Motion to Preclude Answer filed on or about: January 12, 2000

Claimants' Response to Respondent's Requests for Extension of January 11 and January 12, 2000 and Respondent's Motion to Dismiss filed on or about: February 1, 2000

Claimants' Reply to Respondent's Sur-Reply of February 10, 2000 filed on or about: February 11, 2000

Claimants' Response to Respondent's Motion to Dismiss filed on or about: September 7, 2000

Claimants' Response to Answer of Respondent filed on or about: September 15, 2000

Claimants, James and Mina Faulkner, signed the Uniform Submission Agreement: October 4, 1999

Answer of Respondent, Robert H. Taggart, Jr., filed on or about: September 8, 2000

Martin M. Berliner's correspondence of January 11 and January 12, 2000 setting forth Respondent's Request for Extension

Respondent's Motion to Dismiss filed on or about: January 18, 2000

Respondent's Response to Claimants' Preclusion Motion filed on or about: February 3, 2000

Respondent's Sur-Reply to Claimants' Preclusion Motion filed on or about: February 10, 2000

Respondent's Reply to Claimants' Response to his Motion to Dismiss filed on or about: September 18, 2000

Respondent, Robert H. Taggart, Jr., signed the Uniform Submission Agreement: January 18, 2000

CASE SUMMARY

Claimants alleged the following claims with respect to investments in various securities: 1) Breach of Fiduciary Duty; 2) Fraud, Deceit and Intentional Misrepresentation and Omission of Material Fact; 3) Negligence; and 4) Unsuitability.

Respondent denied Claimants' allegations of wrongdoing and alleged that each of the four Counts of the Statement of Claim relates to transactions that occurred more than six years prior to the execution and filing of the Statement of Claim. Respondent asserted that the Statement of Claim must be dismissed pursuant to the provisions of Rule 10304 of the NASD-DR Code of Arbitration Procedure ("the Code").

RELIEF REQUESTED

Claimants requested an award against Respondent Taggart as follows:

1. Compensatory damages in an amount not less than \$74,325.75;
2. Pre-award and post-award interest at the maximum rate allowed by law from the date of the original investment;
3. For cost of arbitration and expenses, including reasonable consulting and attorneys fees, expert witness fees and any other cost deemed reasonable; and
4. Punitive damages in an amount to be determined by the Panel of Arbitrators.

Respondent requested an award in his favor, that Claimants be awarded nothing, and for such other relief as the Panel shall deem warranted, including, but not limited to, attorneys' fees, costs, and other expenses incurred in defending the Statement of Claim.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel determined 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 and documentation filed by the parties relative to Claimants' Motion to Preclude Answer and Respondent's Motion to Dismiss, and the parties' arguments made during the phone conference held September 29, 2000, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' Motion to Preclude Respondent's Answer and Motion to Bar Respondent from presenting any matter, arguments, or defenses are denied.

2. Respondent's Motion to Dismiss is granted. Accordingly, all claims by Claimants, including the claim for punitive damages, are dismissed.

3. The parties shall each bear their respective costs including attorney's 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 = \$225.00

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:

Two (2) Pre-hearing session x \$750.00 = \$1,500.00

Pre-hearing conferences: August 28, 2000 1 session
September 29, 2000 1 session

Total Forum Fees = \$1,500.00

The Panel has assessed \$750.00 of the forum fees to Claimants.

The Panel has assessed \$750.00 of the forum fees to Respondent.

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. The parties did not incur administrative costs.

Fee Summary

I. Claimants are liable for:

Initial Filing Fee	= \$225.00
Forum Fees	= \$750.00
<u>Administrative Costs</u>	= \$ 0.00
Total Fees	= \$975.00

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Loan Payments = \$975.00

Balance Due NASD Regulation, Inc.	= \$ 0.00
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2. Respondent is liable for:

Forum Fees = \$750.00

Administrative Costs = \$ 0.00

Total Fees = \$750.00

Less Drydowns **= 5 0.00**

Balance Due NASD Regulation, Inc.	= \$750.00
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All balances are due to NA3D Dispute Resolution, Inc. and are payable within 30 days of the service date of this Award.

Concurring Arbitrators' Signatures

Barbara L. Edm. Esq.
Barbara L. Edm. Esq.
Public Arbitrator, Presiding Chair

10/05/00
Signature Date

Michael R. Scott
Public Arbitrator

Signature Date

David O. von Wolfersdorff
Industry Arbitrator

Signature Data

Date of Service (For NASD office use only)

Date Served:

OCT 6 2000

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<u>Less payments</u>	<u>= \$975.00</u>
Balance Due NASD Regulation, Inc.	= \$ 0.00

2. Respondent is liable for:

Forum Fees	= \$750.00
<u>Administrative Costs</u>	<u>= \$ 0.00</u>
Total Fees	= \$750.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Regulation, Inc.	= \$750.00

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

Consenting Arbitrators' Signatures

Barbara L. Edin, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Michael R. Scott
Public Arbitrator

10/5/00
Signature Date

David O. von Wolfersdorff
Industry Arbitrator

Signature Date

Date of Service (For NASD office use only)

Date Served:
OCT 6 2000

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<u>Less payments</u>	<u>= \$975.00</u>
Balance Due NASD Regulation, Inc.	= \$ 0.00

2. Respondent is liable for:

Forum Fees	= \$750.00
<u>Administrative Costs</u>	<u>= \$ 0.00</u>
Total Fees	= \$750.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Regulation, Inc.	= \$750.00

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

Concurring Arbitrators' Signatures

Barbara R. Edin, Esq.
Public Arbitrator, Residing Chair

Signature Date

Michael R. Scott
Public Arbitrator

Signature Date

David O. von Wolfersdorff
Industry Arbitrator

Signature Date

10-5-00

Date of Service (For NASD office use only)

Date Served:

OCT 6 2000