

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimants

Alan Tossman & Sandra Falck Tossman

Case No. 99-05192

Name of Respondents

Ferris, Baker Watts, Inc.
Jerald M. Lewis

REPRESENTATION OF PARTIES

Claimants, Alan E. Tossman and Sandra Falck Tossman, hereinafter collectively referred to as "Claimants": Barton J. Sidle, Esq., Attorney at Law, Towson, MD.

Respondents, Ferris, Baker Watts, Inc. and Jerald M. Lewis, hereinafter collectively referred to as "Respondents": William A. Healy, Esq., Silbiger & Coleman, Westminster, MD.

CASE INFORMATION

Statement of Claim filed on: November 16, 1999.

Claimants, Alan E. Tossman and Sandra Tossman, signed the Uniform Submission Agreement: November 11, 1999.

Statement of Answer and Counterclaim filed by Respondents, Ferris, Baker Watts, Inc., Jerald M. Lewis on: April 3, 1999.

Respondent Jerald M. Lewis signed the Uniform Submission Agreement: March 31, 2000.

Respondent Ferris, Baker Watts, Inc. signed the Uniform Submission Agreement on: February 15, 2000.

Claimants' Answer to Counterclaim filed on: April 20, 2000.

CASE SUMMARY

Claimants asserted the following causes of action: professional negligence; financial and investment advisor malpractice; and, failure to supervise.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses: failure to state a claim upon which relief may be granted; Claimants authorized, accepted and/or ratified the transactions in

dispute; the claims are barred by the applicable statutes of limitations; the claims are barred by the doctrines of waiver, estoppel, and ratification; failure to mitigate damages; loss is attributable to market conditions, non-action or inaction on Respondents' part; assumption of risk; claims are barred by the doctrine of unclean hands; and, the claims are ineligible for Arbitration pursuant to Rule 10304 of the NASD Code of Arbitration Procedure.

Respondents' further filed a Counterclaim seeking that Claimants' claim be dismissed and that Respondents receive an award against Claimants that is commensurate with the costs incurred by Respondents in defending the claim, including expenses and reasonable attorneys' fees.

Claimants denied all allegations of wrongdoing asserted by Respondents in their Counterclaim.

RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages \$200,000

Punitive Damages \$200,000

costs unspecified

Reasonable Attorneys' Fees unspecified

Respondents requested that Claimants' claim be dismissed, and in their Counterclaim requested an award against Claimants for costs incurred in defending this action, including expenses and reasonable attorneys' fees.

Claimants requested that Respondents' Counterclaim be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

Respondents filed a Motion for Summary Judgment on all claims brought in Claimants' action. Claimants filed a Response to Respondents' Motion for Summary Judgment, and Respondents' filed a Rebuttal to Claimants' Response to Respondents' Motion for Summary Judgment. The Panel sought supplemental filings from the parties concerning the Motion for Summary Judgment, which were provided by each party. On February 26, 2001, the Panel issued its Ruling, granting the Motion for Summary Judgment and dismissing this Arbitration.

In the event that the Panel granted Respondents' Motion for Summary Judgment, the Respondents agreed to withdraw their Counterclaim.

Claimants' claim against Respondent Gary Richman was settled between the parties and was not considered by the Arbitrators.

AWARD

After oral arguments on the Motion for Summary Judgment and all Supplemental Submissions, and after considering the pleadings, the Motion for Summary Judgment and all responses thereto, and the Supplemental Submissions filed by Claimants and Respondents, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. the Motion for Summary Judgment is granted;
2. that the parties shall bear their respective costs and expenses, including attorneys' fees, except as fee are addressed below;
3. any request for relief not specifically addressed herein is denied in its entirety.

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	= \$300
Counter claim/Cross claim/Third Party Claim filing fee	= \$ 00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is Ferris, Baker, Watts, Inc.

Member surcharge	= \$1,500
Pre-hearing process fee	= \$ 600
Hearing process fee	= \$2,500

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator x \$450	= \$ 450
Pre-hearing conferences: December 19, 2000	1 session
One (1) Pre-hearing session with Panel x \$1,125	= \$1,125
Pre-hearing conference: September 8, 2000	1 session
Total Forum Fees	= \$1,575

The Panel has assessed \$787.50 of the forum fees to Party Claimant.

The Panel has assessed \$787.50 of the forum fees jointly and severally to Respondents.

Fee Summary

Claimants, Alan E. Tossman and Sandra Tossman, are assessed the following fees:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 787.50
Total Fees	= \$1,087.50
<u>Less payments</u>	= \$1,425.00
Refund owed to Claimants	= \$ 337.50

Respondent Ferris, Baker, Watts, Inc., are assessed the following fees:

<u>Member Fees</u>	<u>= \$4,600.00</u>
Total Fees	= \$4,600.00
<u>Less Payments</u>	<u>= \$2,100.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$2,500.00

Respondents Ferris Baker, Watts, Inc. and Jerald M. Lewis are jointly and severally assessed the following fees:

<u>Forum Fees</u>	<u>= \$ 787.50</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 787.50

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

Thomas R. Kline, Esq.
Public Arbitrator, Presiding Chair

Signature Date



Arthur L. Beamon, Esq.
Public Arbitrator

03-19-01

Signature Date

Ronnie Edward Nichols
Industry Arbitrator

Signature Date *March 26, 2001*

March 26, 2001

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

Concurring Arbitrators' Signatures

Thomas R. Kline, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Arthur L. Beamon, Esq.
Public Arbitrator

Signature Date



Ronnie Edward Nichols
Industry Arbitrator

3-20-2001
Signature Date

March 24, 2001
Date of Service (For NASD-DR office use only)

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Concurring Arbitrators' Signatures



Thomas R. Kline, Esq.
Public Arbitrator, Presiding Chair

March 26, 2001
Signature Date

Arthur L. Beamon, Esq.
Public Arbitrator

Signature Date

Ronnie Edward Nichols
Industry Arbitrator

Signature Date

March 26, 2001
Date of Service (For NASD-DR office use only)