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**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 01-05129

Norma Jean Beinhauer, individually  
Norma Jean Beinhauer, as Trustee and Beneficiary  
for the Beinhauer Family Trust dated 01/01/98  
J. Steven Beinhauer, individually  
J. Steven Beinhauer, as Trustee and Beneficiary  
for the Beinhauer Family Trust dated 01/01/98  
J. Steven Beinhauer, as successor Trustee and  
Beneficiary of the Beinhauer Irrevocable Trust  
dated 03/24/92  
J. Steven Beinhauer, as successor Trustee and  
Beneficiary of the Beinhauer Trust dated 03/24/92  
FBO Rae M. Beinhauer

Names of the Respondents

Hearing Site: Tampa, Florida

Lawson Financial Corporation  
Paul Joseph Ballon, Jr.  
Robert W. Lawson

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Nature of the Dispute: Customers vs. Member and Associated Persons.

**REPRESENTATION OF PARTIES**

For Norma Jean Beinhauer, individually; Norma Jean Beinhauer, as Trustee and Beneficiary for the Beinhauer Family Trust dated 01/01/98; J. Steven Beinhauer, individually; J. Steven Beinhauer, as Trustee and Beneficiary for the Beinhauer Family Trust dated 01/01/98; J. Steven Beinhauer, as successor Trustee and Beneficiary of the Beinhauer Irrevocable Trust dated 03/24/92; and J. Steven Beinhauer, as successor Trustee and Beneficiary of the Beinhauer Trust dated 03/24/92 FBO Rae M. Beinhauer; hereinafter collectively referred to as "Claimants": Richard W. Groner, Esq. and Scott A. Schieb, Esq., Groner, Schieb & Williams, Bradenton, Florida. On or about January 30, 2003, Groner, Schieb & Williams withdrew as counsel for Claimants. On or about August 13, 2003, Jeffrey P. Coleman, Esq., Coleman Law Firm, Clearwater, Florida, appeared as counsel for Claimants.

For Lawson Financial Corporation ("Lawson Financial"), Paul Joseph Ballon, Jr. ("Ballon") and Robert W. Lawson ("Lawson"), hereinafter collectively referred to as "Respondents": Nicolas J. Cornelius, Esq., Law Offices of Nicolas J. Cornelius, P.C., Phoenix, Arizona. On or about December 18, 2003, the Law Offices of Nicolas J. Cornelius, P.C., withdrew as counsel for Respondents. On or about January 2, 2004, Amy M. Hass, Esq. and Peter J. Anderson, Esq., Sutherland, Asbill & Brennan, LLP, Atlanta, Georgia, appeared as counsel for Respondents.

**CASE INFORMATION**

Statement of Claim filed on or about: September 24, 2001.

Amendment to Statement of Claim filed on or about: October 16, 2003.

*Claimants signed the Uniform Submission Agreement on: September 21, 2001.*

Statement of Answer filed by Respondents on or about: December 6, 2001.

Respondent Lawson Financial signed the Uniform Submission Agreement on: December 6, 2001.

Respondent Ballon did not file an executed Uniform Submission Agreement.

Respondent Lawson did not file an executed Uniform Submission Agreement.

**CASE SUMMARY**

Claimants alleged the following causes of action: 1) violations of Sections 517.301 and 517.211, Florida Statutes; 2) breach of fiduciary duty and good care; 3) unsuitability; 4) misrepresentation and omissions; 5) violation of Chapter 3E-800, Florida Administrative Code; and 6) negligence. The causes of action relate to investments in bonds, including the Development Authority of Richmond County, Georgia; State of Texas – City of Orange Housing Finance Corporation; Commonwealth of Virginia – Industrial Development Authority of the City of Richmond, Virginia; State of Florida – City of Homestead; City of Jacksonville, Florida; State of Florida – Escambia Housing Corporation; Commonwealth of Pennsylvania – The Cambria County Industrial Redevelopment Authority; State of Florida – Walton County; State of Florida – Perdido Housing Corporation; State of Florida – Hernando County; State of Florida – City of Fort Pierce; and State of Florida – Gilchrist County.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

**RELIEF REQUESTED**

Claimants requested: 1) compensatory damages greater than \$1,400,000.00 but less than \$2,000,000.00; 2) punitive damages; 3) rescission; 4) interest; 5) costs; 6) attorneys' fees; and 7) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondents requested: 1) dismissal of the Statement of Claim in its entirety; 2) expungement of all reference to the above captioned arbitration from Respondents' registration records maintained by the NASD Central Registration Depository ("CRD"); 3) costs; and 4) attorneys' fees.

**OTHER ISSUES CONSIDERED AND DECIDED**

On or about January 23, 2003, Respondents filed their Motion to Dismiss Respondent Lawson. On or about January 30, 2003, Claimants filed their Memorandum in Opposition to Motion to Dismiss Lawson Individually.

On or about February 3, 2003, the Panel deferred the motion for consideration at the evidentiary hearing. At the evidentiary hearing, the Panel denied the motion.

On or about October 14, 2003, the Panel granted Claimants' *ore tenus* motion to amend the Statement of Claim to add a relief request for punitive damages. On or about October 16, 2003, Claimants filed their Amendment to Statement of Claim wherein Claimants added a relief request for punitive damages against Respondents.

On or about December 17, 2003, Claimants filed their Motion to Strike. On or about January 14, 2004, the Panel deferred the motion for consideration at the evidentiary hearing. Thereafter, the Panel granted the motion in part but denied Claimants' request for sanctions set forth in their Motion to Strike.

At the evidentiary hearing, Respondents moved for dismissal of Claimants' claims. Claimants opposed the motion. Thereafter, the Panel denied the motion.

On or about April 23, 2004, Claimants filed, post-hearing, their Notice of Filing with Notice to Members 04-30. On or about April 28, 2004, Respondents filed their post-hearing submissions. On or about April 29, 2004, Claimants filed their Second Motion for Sanctions. On or about May 5, 2004, the Panel held an executive session and determined to deny Claimants' request for sanctions.

The parties 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, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. The Panel finds Respondents liable for violations of Sections 517.301 and 517.211, Florida Statutes, breach of fiduciary duties, misrepresentation and omissions, and negligence. Respondents are jointly and severally liable and shall re-purchase the following bonds from Claimants at the designated price:

<u>Quantity</u>	<u>I.D.</u>	<u>Price</u>
50	State of Florida City of Fort Pierce 7.5% January 1, 2029 CUSIP #348416AC2	PAR/FLAT
200	State of Florida Hernando County 7.25% June 1, 2028 CUSIP #427910AK0	PAR/FLAT

20                    City of Jacksonville, FL                    PAR plus all unpaid interest owed to Claimants  
                         May 1, 2011  
                         8%  
                         CUSIP #469407CU2

2. Respondents are jointly and severally liable and shall pay to Claimants costs in the amount of \$23,930.54.
3. Respondents are jointly and severally liable and shall pay to Claimants \$500.00 that represents reimbursement of the claim filing fee previously paid by Claimants to NASD Dispute Resolution.
4. Respondents are jointly and severally liable and shall pay to Claimants attorneys' fees in an amount to be determined by a court of competent jurisdiction. The Panel finds Claimants' entitlement to attorneys' fees under Chapter 517, Florida Statutes.
5. Claimants' request for punitive damages is denied.
6. Respondents' request for attorneys' fees is denied.
7. Respondents' request for expungement is denied.
8. Any and all claims for relief not specifically addressed herein are denied.

**FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

**Filing Fees**

NASD will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500.00
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**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 person at the time of the events giving rise to the dispute. Accordingly, Respondent Lawson Financial is a member firm and a party.

Member surcharge	= \$2,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4,500.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

On or about January 26, 2003, Claimants filed their motion to compel. On or about January 22, 2003, Respondents filed their response and motion for extension of time. Respondents requested the Panel to adjourn

the evidentiary hearing scheduled for February 18 – 21, 2003. On or about January 28, 2003, the Panel granted Respondents' motion and adjourned the evidentiary hearing scheduled for February 18 – 21, 2003. On or about February 3, 2003, the Panel assessed the adjournment fee in the amount of \$1,200.00 as follows: \$400.00 to Respondent Lawson Financial; \$400.00 to Respondent Lawson; and \$400.00 to Respondent Ballon.

On or about May 19, 2003, Respondents filed their Motion to Reconsider Assessment of Postponement Fees. Claimants did not file a written response to the motion. Following the conclusion of the evidentiary hearing, the Panel denied the motion.

On or about June 10, 2003, Claimants filed their motion to adjourn the evidentiary hearing scheduled for August 18 – 21, 2003. On or about June 20, 2003, Respondents filed their response. On or about July 9, 2003, Claimants notified NASD Dispute Resolution of their withdrawal of the motion. On or about July 10, 2003, Claimants notified NASD Dispute Resolution of their renewal of the motion. On or about July 22, 2003, Respondents filed their response and lack of objection to the motion. On or about August 15, 2003, the Panel granted Claimants' motion, adjourned the evidentiary hearing scheduled for August 18 – 21, 2003, and assessed the adjournment fee of \$1,200.00 jointly and severally to Claimants.

On or about January 20, 2004, Claimants filed their Motion to Reconsider Assessment of Postponement Fees. Respondents did not file a written response to the motion. At the conclusion of the evidentiary hearing, the Panel granted the motion and waived Claimants' adjournment fee of \$1,200.00.

#### Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

#### Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00 per session	= \$	900.00
Pre-hearing conferences:		
January 7, 2004	1 session	
March 11, 2004	1 session	
Four (4) Pre-hearing sessions with Panel @ \$1,200.00 per session	= \$	4,800.00
Pre-hearing conferences:		
March 13, 2002	1 session	
January 27, 2003	1 session	
February 3, 2003	1 session	
October 14, 2003	1 session	

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Twelve (12) Hearing sessions @ \$1,200.00 per session = \$14,400.00  
Hearing Dates:            January 26, 2004        2 sessions  
                                  January 27, 2004        2 sessions  
                                  January 28, 2004        2 sessions  
                                  January 29, 2004        2 sessions  
                                  March 18, 2004         2 sessions  
                                  March 19, 2004         2 sessions

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Total Forum Fees = \$20,100.00

The Panel has assessed the total forum fees in the amount of \$20,100.00 jointly and severally to Respondents.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
Total Fees	= \$ 500.00
<u>Less payments</u>	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Lawson Financial is solely liable for:

Member Fees	= \$ 7,600.00
<u>Adjournment Fees</u>	= \$ 400.00
Total Fees	= \$ 8,000.00
<u>Less payments</u>	= \$ 7,600.00
Balance Due NASD Dispute Resolution	= \$ 400.00

Respondent Lawson is solely liable for:

<u>Adjournment Fees</u>	= \$ 400.00
Total Fees	= \$ 400.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 400.00

Respondent Ballon is solely liable for:

<u>Adjournment Fees</u>	= \$ 400.00
Total Fees	= \$ 400.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 400.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$20,100.00
<u>Total Fees</u>	= \$20,100.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$20,100.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

<i>Richard E. Shute</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Gerald B. Conley</i>	-	<i>Public Arbitrator</i>
<i>Alison Hardage</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

                                   /s/  
Richard E. Shute  
Public Arbitrator, Presiding Chairperson

                                   May 6, 2004  
Signature Date

                                   /s/  
Gerald B. Conley  
Public Arbitrator

                                   May 7, 2004  
Signature Date

                                   /s/  
Alison Hardage  
Non-Public Arbitrator

                                   May 6, 2004  
Signature Date

                                   May 7, 2004  
Date of Service (For NASD Dispute Resolution office use only)

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Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$20,100.00
<u>Total Fees</u>	= \$20,100.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$20,100.00

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**ARBITRATION PANEL**

<i>Richard E. Shute</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Gerald B. Conley</i>	-	<i>Public Arbitrator</i>
<i>Alison Hardage</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

*Richard E. Shute*  
Richard E. Shute  
Public Arbitrator, Presiding Chairperson

5/6/04  
Signature Date

\_\_\_\_\_  
Gerald B. Conley  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Alison Hardage  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

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Arbitration No. 01-05129  
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Respondents are jointly and severally liable for:

Forum Fees	\$20,100.00
Total Fees	\$20,100.00
Less payments	\$ 0.00
Balance Due NASD Dispute Resolution	\$20,100.00

Amounts are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

**ARBITRATION PANEL**

Edward E. Shute	-	Public Arbitrator, Presiding Chairperson
Caroline B. Conley	-	Public Arbitrator
Robert Hardage	-	Non-Public Arbitrator

**Arbitrators' Signatures**

Edward E. Shute  
Public Arbitrator, Presiding Chairperson

Signature Date

Caroline B. Conley  
Public Arbitrator

5/7/04  
Signature Date

Robert Hardage  
Public Arbitrator

Signature Date

Office of Service (For NASD Dispute Resolution office use only)

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Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$20,100.00
<u>Total Fees</u>	= \$20,100.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$20,100.00

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**ARBITRATION PANEL**

<i>Richard E. Shute</i>	.	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Gerald B. Conley</i>	.	<i>Public Arbitrator</i>
<i>Alison Hardage</i>	.	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Richard E. Shute  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Gerald B. Conley  
Public Arbitrator

\_\_\_\_\_  
Signature Date

*Alison Hardage*  
\_\_\_\_\_  
Alison Hardage  
Non-Public Arbitrator

*5-6-04*  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)