

**Award  
FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

**Names of the Claimants**

**Case Number: 07-01585**

William P. Holmes  
Robert K. Arceneaux  
Margaret Stanton  
George Hunter  
Betty J. Hunter  
Girven VanPatton  
Alice Titus Marsalis  
John D. Abston  
Billie L. Wheat

**Names of the Respondents**

**Hearing Site: Jackson, Mississippi**

Royal Alliance Associates, Inc.  
MML Investors Services, Inc.  
Gaynell A. Palmisano

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Nature of the Dispute: Customer vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

For William P. Holmes ("Holmes"), Robert K. Arceneaux ("Arceneaux"), Margaret Stanton ("Stanton"), George Hunter ("G. Hunter"), Betty J. Hunter ("B. Hunter"), Girven VanPatton ("VanPatton"), Alice Titus Marsalis ("Marsalis"), John D. Abston ("Abston") and Billie L. Wheat ("Wheat"), hereinafter collectively referred to as "Claimants": Mack A. Bethea, Esq., Mack A. Bethea, Attorney at Law, Gulfport, Mississippi and Frank C. Breese, III, Esq., Breese Law Office, Ridgeland, Mississippi.

For Respondent Royal Alliance Associates, Inc. ("RAAI"): Will Montgomery, Esq. and John T. Gerhart, Jr., Esq., Hunton & Williams, Dallas, Texas.

For Respondent MML Investors Services, Inc. ("MML"): William P. Thornton, Jr., Esq., Stevens & Lee, Reading, Pennsylvania.

For Respondent Gaynell A. Palmisano ("Palmisano"): Joshua D. Jones, Esq., Maynard Cooper & Gale, P.C., Birmingham, Alabama.

**CASE INFORMATION**

Statement of Claim filed on or about: May 15, 2007.

Claimants Holmes, Stanton, G. Hunter, B. Hunter, Marsalis and Abston signed Submission Agreements: April 10, 2007.

Claimants Arceneaux, VanPatton and Wheat signed Submission Agreements: April 11, 2007.

Respondent MML signed the Submission Agreement: June 14, 2007.  
Respondent Palmisano signed the Submission Agreement: November 7, 2007.  
Respondent RAAI did not file a signed Submission Agreement.  
Statement of Answer filed by Respondent RAAI on or about: August 1, 2007.  
Motion for a More Definite Statement of Claim filed by Respondent RAAI on or about: August 1, 2007.  
Motion to Sever filed by Respondents RAAI and Palmisano on or about: August 1, 2007.  
Motion to Dismiss filed by Respondent RAAI on or about: August 1, 2007.  
Motion to Dismiss filed by Respondent Palmisano on or about: August 17, 2007.  
Statement of Answer filed by Respondent Palmisano on or about: August 17, 2007.  
Statement of Answer and Motion to Dismiss filed by Respondent MML on or about: August 31, 2007.  
Supplemental Statement of Answer filed by Respondent Palmisano on or about: September 7, 2007.  
Response to Motion to Dismiss of Respondents RAAI and Palmisano filed by Claimants on or about: October 15, 2007.  
Response to Motion to Sever filed by Claimants on or about: October 22, 2007.  
Response to Motion for a More Definite Statement of Claim filed by Claimants on or about: October 26, 2007.  
Reply Brief in Support of its Motion to Sever filed by Respondent RAAI on or about: November 1, 2007.  
Response to Motion to Dismiss of Respondent MML filed by Claimants on or about: November 1, 2007.  
Motion in Limine to Exclude Evidence or Elicit Testimony filed by Respondents on or about: January 14, 2010.  
Response to Motion in Limine to Exclude Evidence or Elicit Testimony filed by Claimants on or about: January 15, 2010.

### **CASE SUMMARY**

Claimants asserted the following causes of action: 1) unsuitability; 2) negligence; and, 3) misrepresentations and omissions. The causes of action relate to the purchase of various, unspecified mutual funds containing Class B shares of stock in Claimants' accounts.

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

Respondent RAAI filed a Motion to Dismiss alleging among other things that Claimants' claims were time-barred by the applicable statutes of limitations. In their response to the Motions to Dismiss, Claimants denied that their claims were time-barred and relied upon the limitation set forth in FINRA Rule 12206.

Respondent MML filed a Motion to Dismiss alleging among other things that it was not involved in Claimants' accounts. In their response, Claimants alleged that Respondent MML had a supervisory obligation to assets that are transferred to it.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested the following amounts of compensatory damages:

Claimant Holmes requested \$1,180,000.00  
Claimant Arceneax requested \$900,000.00  
Claimant Stanton requested \$801,000.00  
Claimant G. Hunter requested \$750,000.00  
Claimant B. Hunter requested \$10,000.00  
Claimant VanPatton requested \$720,000.00  
Claimant Marsalis requested \$340,000.00  
Claimant Abston requested \$1,164,000.00  
Claimant Wheat requested \$900,000.00

Claimants also requested additional compensation to pay all IRS and state income taxes, punitive damages, attorneys' fees and costs.

In its Statement of Answer, Respondent MML requested that the Panel dismiss Claimants' claim, with prejudice, attorneys' fees, costs, an assessment of forum fees to Claimants and such other relief as this Panel deemed just and appropriate.

In its Statement of Answer, Respondent RAAI requested that Claimants take nothing on their claims, an award dismissing and denying their claims, attorneys' fees, costs and all other relief to which it is entitled.

### **OTHER ISSUES CONSIDERED AND DECIDED**

The Panel acknowledges that they have each read the pleadings and other materials filed by the parties.

Respondent RAAI did not file with FINRA Dispute Resolution a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

On or about November 28, 2007, the Panel issued an Order that denied Respondents RAAI and Palmisano's Motion to Sever and Respondent RAAI's Motion for a More Definite Statement. Additionally, the Panel determined that Respondents' Motions to Dismiss are deferred until the final hearings.

On or about December 19, 2008, Claimants Wheat and VanPatton notified FINRA Dispute Resolution that they dismissed their claims, with prejudice, against Respondent MML. Claimants Holmes, Arceneaux, Stanton, G. Hunter, B. Hunter, Marsalis and Abston stated at the final hearing that they had settled their claims against Respondent MML.

On or about October 28, 2009, Respondent Palmisano filed for bankruptcy under the United States Bankruptcy Code. In accordance with these filings, all claims against Respondent Palmisano are indefinitely stayed. Therefore, the Panel made no determination with respect to the claims against Respondent Palmisano.

At the final hearing, the Panel denied Respondent RAAI's Motion to Dismiss.

Respondent RAAI filed a Motion in Limine to Exclude Evidence or Elicit Testimony which sought exclusion of certain case law. Claimants responded that they relied upon the ability of the Panel to determine relevant cases. The Panel denied Respondent's motion.

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:

Respondent RAAI is found liable and shall pay to Claimants compensatory damages as identified below:

To Claimant Holmes: \$159,000.00  
To Claimant Arceneaux: \$162,000.00  
To Claimant Stanton: \$126,000.00  
To Claimant G. Hunter: \$52,000.00  
To Claimant B. Hunter: \$11,000.00  
To Claimant VanPatton: \$59,000.00  
To Claimant Marsalis: \$14,000.00  
To Claimant Abston: \$187,000.00  
To Claimant Wheat: \$89,000.00

Respondent RAAI is found liable and shall pay to each Claimant interest at the rate of 4% per annum from the date of service of the Award until the date of payment.

Claimants' requests for punitive damages and attorneys' fees are denied.

Respondent RAAI's request for attorney's fees is denied.

Any and all claims for relief not specifically addressed herein, are denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution assessed a filing fee\* for each claim:

Initial claim filing fee = \$1,800.00

*\*The filing fee is made up of a non-refundable and a refundable portion.*

**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. Accordingly, Respondent RAAI is a party and a member firm.

Member surcharge = \$3,350.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$5,500.00

Respondent MML was a party and is a member firm.

Member surcharge = \$3,350.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$5,500.00

**Hearing Session Fees and Assessments**

The Panel has assessed hearing session 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 the Panel @ \$1,200.00/session = \$ 2,400.00  
Pre-hearing conferences: October 15, 2007 1 session  
November 28, 2007 1 session

Fifteen (15) Hearing sessions @ \$1,200.00/session = \$18,000.00  
Hearing Dates: January 25, 2010 2 sessions  
January 26, 2010 2 sessions  
January 27, 2010 2 sessions  
January 28, 2010 2 sessions  
January 29, 2010 1 session  
February 1, 2010 3 sessions  
February 2, 2010 2 sessions  
February 3, 2010 1 session

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Total Hearing Session Fees = \$20,400.00

The Panel has assessed \$10,200.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$10,200.00 of the hearing session fees to Respondent RAAI.

All balances are payable to FINRA Dispute Resolution and are due upon receipt.

**ARBITRATION PANEL**

Prince C. Chambliss, Jr.

-

Public Arbitrator, Presiding Chairperson

*Mark A. Myers* - *Public Arbitrator*  
*George A. Sawyer* - *Non-Public Arbitrator*

**Concurring Arbitrators' Signatures**

          /s/            
Prince C. Chambliss, Jr.  
Public Arbitrator, Presiding Chairperson

2/8/10  
Signature Date

          /s/            
Mark A. Myers  
Public Arbitrator

2/8/10  
Signature Date

          /s/            
George A. Sawyer  
Non-Public Arbitrator

2/8/10  
Signature Date

          2/9/10            
Date of Service (For FINRA Dispute Resolution use only)

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**Concurring Arbitrators' Signatures**



Prince C. Chambliss, Jr.  
Public Arbitrator, Presiding Chairperson

*February 8, 2010*  
Signature Date

\_\_\_\_\_  
Mark A. Myers  
Public Arbitrator

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

\_\_\_\_\_  
George A. Sawyer  
Non-Public Arbitrator

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

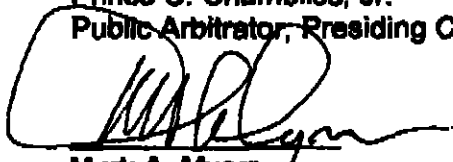
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**Public Arbitrator, Presiding Chairperson**

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Arbitration No. 07-01585  
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Mark A. Myers  
George A. Sawyer

Public Arbitrator  
Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson

Signature Date

Mark A. Myers  
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