

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

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In the Matter of the Arbitration Between:

Name of the Claimant

Raymond James & Associates, Inc.

Case Number: 00-03597

Names of the Respondents

Janney Montgomery Scott LLC

Sean Donald Pascoe

Laurel Ann Salsberry

Hearing Site: Boca Raton, Florida

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**REPRESENTATION OF PARTIES**

For Raymond James & Associates, Inc. ("RJA") hereinafter referred to as "Claimant":  
Michael A. Brady, Tate, Lazarini & Beall, PLC, Memphis, TN.

For Respondent Janney Montgomery Scott LLC ("JMS"): Howard A. Tescher, Esq., Kipnis  
Teschler Lippman & Valinsky, Fort Lauderdale, Florida.

For Respondents Sean Donald Pascoe ("Pascoe") and Laurel Ann Salsberry ("Salsberry"):  
Arthur C. Koski, Esq., Boca Raton, FL.

**CASE INFORMATION**

Statement of Claim and Request for Immediate and Permanent Injunctive Relief filed on or  
about: August 18, 2000.

Response to Request for Immediate Injunctive Relief filed by Respondent Pascoe: August  
23, 2000.

Claimant signed the Uniform Submission Agreement: August 16, 2000.

Statement of Answer filed by Respondent JMS on or about: October 18, 2000.

Respondent JMS did not file an executed Uniform Submission Agreement.

Statement of Answer and Counterclaim filed by Respondent Salsberry on or about: October  
18, 2000.

Respondent Salsberry signed the Uniform Submission Agreement: September 5, 2000.

Statement of Answer and Counterclaim filed by Respondent Pascoe on or about: October  
19, 2000.

Respondent Pascoe did not file an executed Uniform Submission Agreement.

Statement of Answer to Counterclaim filed by Claimant on or about: November 13, 2000.

**CASE SUMMARY**

Claimant asserted the following: 1) Respondents Salsberry and Pascoe breached their  
contract with Claimant by their failure to repay amounts owed under Advanced  
Compensation Agreements and for commission overcharges due from Respondents Salsberry  
and Pascoe; and 2) Respondent JMS tortiously interfered with Claimant's contractual

relationships with Respondents Salsberry and Pascoe.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various defenses. Further, Respondents Salsberry and Pascoe asserted counterclaims against Claimant for alleged defamation.

Unless specifically admitted in its Answer, Claimant denied the allegations made in the counterclaims.

### **RELIEF REQUESTED**

Claimant requested compensatory damages of \$159,320.48, plus interest at a rate of 10%, costs and attorneys' fees from Respondent Pascoe, and \$155,320.48, plus interest at a rate of 10%, costs and attorneys' fees from Respondent Salsberry. In addition, Claimant requested unspecified compensatory damages from Respondent JMS plus costs and attorneys' fees. Claimant also requested dismissal of the counterclaims.

Respondents requested that all claims against them be dismissed.

In his Counterclaim, Respondent Pascoe requested compensatory damages of \$500,000.00, plus punitive damages, that all references to this matter be expunged from the NASD Central Registration Depository ("CRD") record of Respondent Pascoe, and that Respondent Pascoe's CRD record be amended to reflect that he was terminated for "refusal to sign a promissory note containing a covenant not to compete."

In her Counterclaim, Respondent Salsberry requested compensatory damages of \$500,000.00, plus punitive damages, costs of this action, that all references to this matter be expunged from the NASD Central Registration Depository ("CRD") record of Respondent Salsberry, that Respondent Salsberry's CRD record be amended to reflect that she was terminated for refusal to sign a promissory note which contained terms materially altering her employment relationship with Claimant and such other and further relief as is deemed appropriate.

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

Respondents JMS and Pascoe did not file with NASD, properly executed submissions to arbitration but are required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having answered the claim, and in the case of Respondent Pascoe, having appeared and testified at the hearing, are bound by the determination of the undersigned arbitrators (the "Panel") on all issues submitted.

On August 23, 2000, the interim injunctive relief arbitrator entered an Order ("Order on Interim Injunctive Relief") which denied Claimant's application for injunctive relief, without prejudice.

On or about December 27, 2001, Claimant advised NASD that it had settled its claims with Respondent JMS and dismissed Respondent JMS from these proceedings, with prejudice.

On or about June 13, 2002, Claimant and Respondents Pascoe and Salsberry filed with NASD a Stipulated Award which had been signed by Claimant and Respondents Pascoe and Salsberry and requested that same be incorporated herein.

The parties agree that this Stipulated Award may be executed in counterparts.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Pascoe is ordered to pay to Raymond James the sum of \$122,500.00 pursuant to the following terms:
  - a. Respondent Pascoe will pay Raymond James interest at 10% on the \$122,500.00 due Raymond James on a quarterly basis. Thus, Mr. Pascoe will pay Raymond James the amount of \$3,062.50 on a quarterly basis (with the exception of the first two payments). Mr. Pascoe shall make payments in the amounts set forth below on or before the dates set forth on the following schedule:
    - (i) \$1,531.25 on or before September 1, 2002;
    - (ii) \$4,539.75 on or before December 1, 2002;
    - (iii) \$3,062.50 on or before March 1, 2003;
    - (iv) \$3,062.50 on or before June 1, 2003; and
    - (v) \$3,062.50 on or before September 1, 2003.
  - b. Mr. Pascoe will pay Raymond James \$122,500.00 on or before December 1, 2003.

All payments to be made via cashier's check, money order, wire transfer or other "cleared" funds. All payments shall be sent by Respondent to Raymond James & Associates, Inc., c/o Robert Stokes, Esq., Corporate Counsel, 880 Carillon Parkway, Tower 1, 6th Floor, Legal Department, St. Petersburg, FL 33733.
2. Respondent Laurel Salsberry is ordered to pay to Raymond James the sum of \$72,500.00 pursuant to the following terms:
  - a. Ms. Salsberry will pay Raymond James interest at 10% on the

\$72,500.00 due Raymond James on a quarterly basis. Thus, Ms. Salsberry will pay Raymond James the amount of \$1,812.50 in interest on or before the dates set forth on the following schedule:

- (i) \$1,812.50 on or before September 1, 2002;
- (ii) \$1,812.50 on or before December 1, 2002;
- (iii) \$1,812.50 on or before March 1, 2003;
- (iv) \$1,812.50 on or before June 1, 2003;
- (v) \$1,812.50 on or before September 1, 2003.

- b. Ms. Salsberry will pay Raymond James \$72,500.00 on or before December 1, 2003.

All payments to be made via cashier's check, money order, wire transfer or other "cleared" funds. All payments shall be sent by Respondent to Raymond James & Associates, Inc., c/o Robert Stokes, Esq., Corporate Counsel, 880 Carillon Parkway, Tower 1, 6th Floor, Legal Department, St. Petersburg, FL 33733.

3. In the event either Respondent fails to comply with any of the provisions of paragraphs 1 and 2, they shall be in default and in non-compliance with this Award and the amount of the judgment shall immediately increase. With respect to Respondent Pascoe, the amount of the judgment shall immediately increase to \$159,320.48, plus: (a) interest on \$130,794.10 at 10% per annum until the award is paid, such interest being accrued from August 10, 2000, the date of Respondent's termination from Raymond James to the date of payment, (b) attorney's fees in the amount of \$20,000.00 and (c) \$2,750.00 representing the filing fee paid by Raymond James. The full amount of the increased award, interest, attorneys' fees and filing fee due under this paragraph shall be due and payable to Raymond James immediately upon the default. With respect to Respondent Salsberry, the amount of the judgment shall immediately increase to \$155,320.48, plus: (a) interest on \$122,920.48 at 10% per annum until the award is paid, such interest being accrued from August 10, 2000, the date of Respondent's termination from Raymond James to the date of payment, (b) attorneys' fees in the amount of \$20,000.00 and (c) \$2,750.00 representing the filing fee paid by Raymond James. The full amount of the increased award, interest, attorneys' fees and filing fee due under this paragraph shall be due and payable to Raymond James immediately upon the default.
4. Respondents have agreed to waive any rights they may have to seek to modify, vacate or otherwise set aside this Award.
5. Respondents' Counterclaims are dismissed with prejudice.
6. Respondents agree that they will return all documents produced by Raymond

James in this matter in their possession or in possession of their counsel. Respondents further agree to use their best efforts to have each of their attorneys in this matter return any copies of documents produced by Raymond James as well.

7. Each party shall bear its own costs and expenses with the exception of the fees specified below.
8. Any and all relief not specifically addressed herein is denied.

The parties hereby signify their agreement to the terms of this Stipulation of Award by their signatures below.

IT IS SO ORDERED.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee	= \$1,000.00
Counterclaim filing fee	= \$ 300.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, Raymond James & Associates, Inc. and Janney Montgomery Scott LLC are parties.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$2,500.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

July 10 through 13, 2001 hearing dates, adjournment by Respondent Pascoe = \$1,125.00

February 12, through February 13, 2002 hearing dates, Respondent Pascoe's adjournment request granted by the Panel. The Panel waived the adjournment fee.

### **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.

Member firm RJA is assessed:

Injunctive relief surcharge = \$2,500.00

### **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 = \$ 900.00

Pre-hearing conferences:	August 23, 2000	1 session
	March 22, 2001	1 session

Four (4) Pre-hearing sessions with Panel @ \$1,125.00 = \$4,500.00

Pre-hearing conferences:	January 18, 2001	1 session
	June 20, 2001	1 session
	January 22, 2002	1 session
	February 8, 2002	1 session

Three (3) Hearing sessions @ \$1,125.00 = \$3,375.00

Hearing Dates:	November 12, 2001	2 sessions
	November 13, 2001	1 session

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Total Forum Fees = \$8,775.00

1. The Panel has assessed \$4,387.50 of the forum fees to Claimant.
2. The Panel has assessed \$2,193.75 of the forum fees to Respondent JMS.
3. The Panel has assessed \$2,193.75 of the forum fees jointly and severally to Respondents Pascoe and Salsberry.

### **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.

No administrative costs were incurred during these proceedings.

### Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 1,000.00
Member Fees	= \$ 4,600.00
Injunctive Relief Fees	= \$ 2,500.00
<u>Forum Fees</u>	<u>= \$ 4,387.50</u>
Total Fees	= \$12,487.50
<u>Less payments</u>	<u>= \$11,250.00</u>
Balance Due NASD	= \$ 1,237.50

2. Respondent JMS is solely liable for:

Member Fees	= \$ 4,600.00
<u>Forum Fees</u>	<u>= \$ 2,193.75</u>
Total Fees	= \$ 6,793.75
<u>Less payments</u>	<u>= \$ 4,600.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,193.75

3. Respondent Pascoe is solely liable for:

Counterclaim Filing Fee	= \$ 300.00
<u>Adjournment Fee</u>	<u>= \$ 1,125.00</u>
Total Fees	= \$ 1,425.00
<u>Less payments</u>	<u>= \$ 1,425.00</u>
Balance Due NASD	= \$ 0.00

4. Respondent Salsberry is solely liable for:

<u>Counterclaim Filing Fee</u>	<u>= \$ 300.00</u>
Total Fees	= \$ 300.00
<u>Less payments</u>	<u>= \$ 300.00</u>
Balance Due NASD	= \$ 0.00

5. Respondents Pascoe and Salsberry are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 2,193.75</u>
Total Fees	= \$ 2,193.75
<u>Less payments</u>	<u>= \$ 2,193.75</u>
Balance Due NASD	= \$ 0.00

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

### ARBITRATION PANEL

Allen Kilik, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert D. Herschman, Esq.	-	Public Arbitrator
Steven A. Hurst, CFPR	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Allen Kilik, Esq.  
Public Arbitrator, Presiding Chairperson

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

/s/  
Robert D. Herschman, Esq.  
Public Arbitrator

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

/s/  
Steven A. Hurst, CFPR  
Non-Public Arbitrator

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

August 22, 2002

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



To: Leslie C. Marlowe, Esq  
Fax: 561 417 7994

Concurring Arbitrators' Signatures

Allen Kilk  
Allen Kilk, Esq.  
Public Arbitrator, Presiding Chairperson

8/21/02  
Signature Date

Robert D. Herschman, Esq.  
Public Arbitrator

Signature Date

Steven A. Hurst, CFPR  
Non-Public Arbitrator

Signature Date

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Arbitration No. 00-03597  
Award Page 8

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\_\_\_\_\_  
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Public Arbitrator, Presiding Chairperson

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

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Public Arbitrator

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Public Arbitrator, Presiding Chairperson

Signature Date

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Public Arbitrator

Signature Date

  
Steven A. Hurst, CFPR  
Non-Public Arbitrator

08/09/02  
Signature Date

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