

**Award
NASD**

In the Matter of the Arbitration Between

Name of Claimant

John C. Joyner, as Guardian of the
Property of Fredna M. Cottingham

Case No. 00-05682

Names of Respondents

Raymond James Financial Services, Inc.
Michael D. Antonio
Luke Haymond

Hearing Site: Atlanta, Georgia

REPRESENTATION OF PARTIES

For John C. Joyner, as Guardian of the Property of Fredna M. Cottingham ("Joyner"), hereinafter referred to as "Claimant": Daniel I. MacIntyre, Esq. and Samuel T. Brannan, Esq., Shapiro Fussell Wedge Smotherman Martin & Price, LLP, Atlanta, Georgia.

For Respondent Raymond James Financial Services, Inc. ("Raymond James"): Scott M. Ratchick, Hunton & Williams, Atlanta, Georgia.

For Respondents Michael D. Antonio ("Antonio") and Luke Haymond ("Haymond"): Robert G. Brunton, Esq., Kutak Rock, LLP, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: December 22, 2000.

Letters of Guardianship of the Property of Incapacitated Adult filed on or about: February 22, 2001.

Claimant signed the Uniform Submission Agreement: December 20, 2000.

Statement of Answer and Third-Party Claim filed by Respondents on or about: March 8, 2001.

Respondent Raymond James signed the Uniform Submission Agreement: November 30, 2001.

Respondents Antonio and Haymond signed the Uniform Submission Agreements: March 6, 2001.

CASE SUMMARY

Claimant asserted the following causes of action: unauthorized transactions; Georgia

and federal securities act violations; unsuitability and excessive concentration; churning; breach of fiduciary duty; and, violations of NASD Conduct Rules. The causes of action relate to transactions in Claimant's account in unspecified securities products.

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

RELIEF REQUESTED

Claimant requested:

Well-managed account damages	\$708,531.00
Disgorgement of commissions	\$3,876.00
Disgorgement of margin interest paid on unauthorized transactions	\$293.11
Punitive damages	unspecified
Interest @ 7% from 6/99 through 3/02	\$133,036.59
Attorneys' fees and expenses	\$56,070.68 plus 20% of any amount recovered

Respondents requested that all allegations of wrongdoing and all causes of action asserted against Respondents in the Statement of Claim be summarily dismissed with prejudice, that Respondents be awarded all costs and expenses, including attorneys' fees, incurred by them as a result of their defense of the action filed by Claimant and all such other relief as the arbitration panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

In their Statement of Answer, Respondents asserted a third-party claim against an individual whose submission to the jurisdiction of the NASD was voluntary. The individual declined to voluntarily submit to the jurisdiction of the NASD.

The parties agreed that the Award in this matter may be executed in counterpart copies.

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:

The arbitration panel finds Respondents liable under the claims of negligence, breach of fiduciary duty, breach of contract and violation of the NASD rules. Further, the arbitration panel wishes to state specifically they found there was no fraudulent intent

in this case. In addition, the bulk of the responsibility is on Respondent Raymond James. The arbitration panel finds that the individual brokers acted in good faith but were negligent in failing to determine earlier than they did the appropriate course of action given the power of attorney and the specific facts of the case.

Respondent Raymond James is liable and shall pay to Claimant actual damages in the sum of \$337,744.30 plus post-judgment interest at the statutory rate of 12% per annum (Georgia) which shall begin to accrue thirty days after the date of the Award if the Award is not paid in full within thirty days. No interest shall accrue if full payment is made within thirty days.

Respondent Antonio is liable and shall pay to Claimant actual damages in the sum of \$1,500.00 plus post-judgment interest at the statutory rate of 12% per annum (Georgia) which shall begin to accrue thirty days after the date of the Award if the Award is not paid in full within thirty days. No interest shall accrue if full payment is made within thirty days.

Respondent Haymond is liable and shall pay to Claimant actual damages in the sum of \$1,500.00 plus post-judgment interest at the statutory rate of 12% per annum (Georgia) which shall begin to accrue thirty days after the date of the Award if the Award is not paid in full within thirty days. No interest shall accrue if full payment is made within thirty days.

Respondent Raymond James is liable and shall pay to Claimant attorneys' fees in the sum of \$50,000.00 pursuant to O.C.G.A. 13-6-11.

Respondent Raymond James is liable and shall pay to Claimant the sum of \$12,500.00 representing reimbursement of Claimant's expert witness fees incurred.

Respondent Raymond James is liable and shall pay to Claimant the sum of \$375.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondents Antonio and Haymond's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondents Antonio and Haymond must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Any and all requests for relief not specifically addressed herein, including Claimant's request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$375.00
Third party claim filing fee	= \$1,250.00

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. In this matter, the member firm is a party.

Member surcharge	= \$2,000.00
Pre-hearing process fee	= \$600.00
Hearing process fee	= \$3,500.00

Adjournment Fees

Adjournments requested during these proceedings:

There were no adjournments granted during these proceedings for which fees were assessed.

Forum Fees and Assessments

The panel has the authority to assess 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:

Five Pre-hearing sessions with the Panel x \$1,200.00	= \$6,000.00
Pre-hearing conferences:	
September 13, 2001	1 session
October 1, 2001	1 session
March 11, 2002	1 session
April 3, 2002	1 session
May 31, 2002	1 session
Ten Hearing sessions x \$1,200.00	= \$12,000.00
Hearing Dates:	
March 13, 2002	2 sessions
March 14, 2002	2 sessions
June 25, 2002	2 sessions
June 26, 2002	2 sessions
June 27, 2002	2 sessions

Total Forum Fees	= \$18,000.00
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The Panel has assessed the total forum fees of \$18,000.00 to Respondent Raymond James.

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.

There were no administrative costs incurred during these proceedings.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$375.00
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Total Fees	= \$375.00
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Less payments	= \$375.00
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Balance Due NASD	= \$0.00
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Respondent Raymond James be and hereby is solely liable for:

Member Fees	= \$6,100.00
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Forum Fees	= \$18,000.00
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Total Fees	= \$24,100.00
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Less payments	= \$6,100.00
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Balance Due NASD	= \$18,000.00
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Respondents be and hereby are jointly and severally liable for:

Third Party Claim Filing Fee	= \$1,250.00
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Total Fees	= \$1,250.00
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Less payments	= \$1,000.00
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Balance Due NASD	= \$250.00
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All balances are due and payable to NASD immediately upon the parties' receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Gary J. Leshaw, JD	-	Public Arbitrator, Presiding Chair
R. Wayne Thorpe, Esq.	-	Public Arbitrator
Marian Cover Dockery, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/S/_____
Gary J. Leshaw, JD
Public Arbitrator, Presiding Chair

Signature Date

_____/S/_____
Marian Cover Dockery, Esq.
Non-Public Arbitrator

Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature

This arbitrator concurs with the decision to award Claimant damages but dissents with respect to the amount of damages awarded. Further, this arbitrator dissents with respect to the award of attorneys' fees.

_____/S/_____
R. Wayne Thorpe, Esq.
Public Arbitrator

Signature Date

August 5, 2002
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
Arbitration No. 00-05682
Award Page 6

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FL ARBITRATION**ARBITRATION PANEL**

Gary J. Leshaw, JD	-	Public Arbitrator, Presiding Chair
R. Wayne Thorpe, Esq.	-	Public Arbitrator
Marian Cover Dockery, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Gary J. Leshaw, JD
Public Arbitrator, Presiding Chair

7/17/02
Signature Date

Marian Cover Dockery, Esq.
Non-Public Arbitrator

Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature

This arbitrator concurs with the decision to award Claimant damages but dissents with respect to the amount of damages awarded. Further, this arbitrator dissents with respect to the award of attorneys' fees.

R. Wayne Thorpe, Esq.
Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.
Arbitration No. 00-05682
Award Page 6

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Marian Cover Dockery, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Gary J. Leshaw, JD
Public Arbitrator, Presiding Chair

Signature Date

Marian Cover Dockery
Marian Cover Dockery, Esq.
Non-Public Arbitrator

8/5/02
Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature

This arbitrator concurs with the decision to award Claimant damages but dissents with respect to the amount of damages awarded. Further, this arbitrator dissents with respect to the award of attorneys' fees.

R. Wayne Thorpe, Esq.
Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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R. Wayne Thorpe, Esq.	-	Public Arbitrator
Marian Cover Dockery, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Gary J. Leshaw, JD
Public Arbitrator, Presiding Chair

Signature Date

Marian Cover Dockery, Esq.
Non-Public Arbitrator

Signature Date

Concurring in Part, Dissenting in Part Arbitrator's Signature

This arbitrator concurs with the decision to award Claimant damages but dissents with respect to the amount of damages awarded. Further, this arbitrator dissents with respect to the award of attorneys' fees.



R. Wayne Thorpe, Esq.
Public Arbitrator

8/6/02

Signature Date

Date of Service (For NASD office use only)