

AWARD
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Richard Deming and Audrey A. Deming and
Robert A. Deming and Sue Hallead Deming

and

01-01043
Southfield, Michigan

Raymond James & Associates, Inc.
Roney & Co.
Walter S. Olsson, and
Guy W. Staples

REPRESENTATION OF PARTIES

Richard Deming, Audrey A. Deming, Robert A. Deming and Sue Hallead Deming ("Claimants") were represented by Alfred J. Gemrich, Esq., Howard & Howard, Kalamazoo, Michigan.

Raymond James & Associates, Inc., Roney & Co., Walter S. Olsson, and Guy W. Staples ("Respondents") were represented by Richard W. Paige, Esq., Honigman Miller Schwartz & Cohn, LLP, Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about March 1, 2001. The Submission Agreement of Claimant Richard Deming, Audrey A. Deming, Robert A. Deming and Sue Hallead Deming was signed on February 28, 2001.

Statement of Answer was filed by Respondent Raymond James & Associates, Inc., Roney & Co., Walter S. Olsson, and Guy W. Staples on or about April 18, 2001. The Submission Agreement of Respondent Raymond James & Associates, Inc., f/k/a Roney & Co. was signed on May 1, 2001. The Submission Agreement of Respondent Walter S. Olsson was signed on May 1, 2001. The Submission Agreement of Respondent Guy W. Staples was signed on April 30, 2001.

CASE SUMMARY

Claimants asserted the following causes of action: unsuitability; breach of fiduciary duty; violation of duty rules of security exchanges and regulatory organizations; violation of federal securities laws; violations of state securities laws; negligence; innocent and negligent misrepresentation; intentional fraud, gross negligence and reckless misconduct; violation of duty to supervise; violation of contractual duties; and breach of other duties.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted defenses including the following: Claimants' claims for negligence, breach of fiduciary duties and suitability are not maintainable; even if Claimants could establish the elements of a §10(b) cause of action, their claim is barred by the statute of limitations; there is no implied cause of action under the NASD and NYSE Rules and Michigan does not recognize a breach of contract claim against a securities dealer; Claimants' claims are barred by the doctrines of estoppel and/or waiver; Claimants' claims are barred because they have failed to mitigate their purported damages; Claimants knowingly assumed the risks and are barred from claiming damages as a result of the known risks.

RELIEF REQUESTED

Claimants Richard Deming and Audrey A. Deming requested an award in the amount of: a) commissions and margin interest of \$15,728.88; b) realized trading losses of \$24,682.00; c) unrealized trading losses of \$64,039.00; d) portfolio losses of \$184,133.00; e) costs, expenses, changes (sic), and fees; f) taxes; g) arbitration and/or mediation fees; h) reasonable attorneys fees; i) the amount paid for the Bioanalytical stock less the price obtained for the stock when sold or less the value of the shares remaining plus 6% interest and other case related costs; j) interest on all sums from and after the date the (sic) first became due; and k) punitive damages.

Claimants Robert Deming and Sue Hallead Deming requested an award in the amount of a) commissions and margin interest of \$14,542.00; b) realized trading losses of \$69,713.00; c) unrealized trading losses of \$64,039; d) portfolio losses of \$250,490.00; e) costs, expenses, charges, and fees; f) taxes; g) arbitration and/or mediation fees; h) reasonable attorneys fees; i) the amount paid for the Bioanalytical stock less the price obtained for the stock when sold or less the value of the shares remaining plus 6% interest and other case related costs; and j) interest on all sums from and after the date the (sic) first became due; and k) punitive damages.

Claimants voluntarily limited their aggregate damage claims to \$500,000.00, exclusive of interest and expenses.

Respondents requested that the claims asserted against them be dismissed, forum fees and expungement of Respondent Olsson's and Respondent Staples' records.

OTHER ISSUES CONSIDERED & DECIDED

Claimants submitted a post-hearing submission on or about February 28, 2002. Respondents objected to Claimants' submission on or about March 4, 2002.

The Panel denied each of the Claimants' requests to change venue.

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. In either case, the parties

have agreed to receive conformed copies of the award while the originals remain on file with the NASD Dispute Resolution, Inc. (the "NASD").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Respondents, Raymond James & Associates, Inc., Roney & Co., Walter S. Olsson, and Guy W. Staples, are jointly and severally liable for and shall pay to Claimants, Richard Deming and Audrey A. Deming, the sum of \$98,000.00 in compensatory damages;
- 2.) Respondents, Raymond James & Associates, Inc., Roney & Co., Walter S. Olsson, and Guy W. Staples, are jointly and severally liable for and shall pay to Claimants, Richard Deming and Audrey A. Deming, the sum of \$7,500.00 in attorney fees, pursuant to MCLA 451.810(a);
- 3.) Respondents, Raymond James & Associates, Inc., Roney & Co., Walter S. Olsson, and Guy W. Staples, are jointly and severally liable for and shall pay to Claimants, Richard Deming and Audrey A. Deming, interest pursuant to MCL 600.6013 on \$98,000.00 from and inclusive of March 1, 2001, to and inclusive of the date this Award is paid in full;
- 4.) Respondents, Raymond James & Associates, Inc., Roney & Co., Walter S. Olsson, and Guy W. Staples, are jointly and severally liable for and shall pay to Claimants, Robert A. Deming and Sue Hallead Deming, the sum of \$79,200.00 in compensatory damages;
- 5.) Respondents, Raymond James & Associates, Inc., Roney & Co., Walter S. Olsson, and Guy W. Staples, are jointly and severally liable for and shall pay to Claimants, Robert A. Deming and Sue Hallead Deming, the sum of \$7,500.00 in attorney fees, pursuant to MCLA 451.810(a);
- 6.) Respondents, Raymond James & Associates, Inc., Roney & Co., Walter S. Olsson, and Guy W. Staples, are jointly and severally liable for and shall pay to Claimants, Robert A. Deming and Sue Hallead Deming, interest pursuant to MCL 600.6013 on \$79,200.00 from and inclusive of March 1, 2001, to and inclusive of the date this Award is paid in full;
- 7.) Respondents, Raymond James & Associates, Inc., Roney & Co., Walter S. Olsson, and Guy W. Staples, are jointly and severally liable for and shall pay to Claimants Richard Deming, Audrey A. Deming, Robert A. Deming and Sue Hallead Deming the sum of \$300.00 as reimbursement of filing fees retained by NASD;

- 8.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 9.) That any relief not specifically enumerated, including punitive damages, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain the non-refundable filing fees for each claim:

Initial claim 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 firm that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is Raymond James & Associates, Inc.

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

Forum Fees and Assessments

The Arbitration Panel assesses 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:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00
Pre-hearing conference: December 21, 2001 1 session

One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00
Pre-hearing conference: August 27, 2001 1 session

Twelve (12) Hearing sessions x \$1,125.00 = \$13,500.00

Hearing Dates: January 15, 2002 1 session
January 16, 2002 2 sessions
January 17, 2002 2 sessions
February 22, 2002 2 sessions
February 23, 2002 2 sessions
February 25, 2002 3 sessions

Total Forum Fees = \$15,075.00

The Arbitration Panel has assessed \$15,075.00 of the forum fees jointly and severally to Raymond James & Associates, Inc. Roney & Co. Walter S. Olsson, and Guy W. Staples.

Fee Summary

Claimants, Richard Deming and Audrey A. Deming and Robert A. Deming and Sue Hallead Deming, are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
Balance refunded by NASD Dispute Resolution, Inc.	= \$ 1,125.00

Respondent, Raymond James & Associates, Inc., is liable for:

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

Respondents, Raymond James & Associates, Inc. Roney & Co. Walter S. Olsson, and Guy W. Staples, are jointly and severally liable for:

<u>Forum Fees</u>	= \$15,075.00
<u>Total Fees</u>	= \$15,075.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution, Inc.	= \$15,075.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

Carmine J. Perrotta, Esq. - Public Arbitrator, Presiding Chair
Charles S. Palmer, JD - Public Arbitrator
Robert A. Vogler - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Carmine J. Perrotta, Esq.
Carmine J. Perrotta, Esq.
Public Arbitrator, Presiding Chair

03/20/02
Signature Date

/s/ Charles A. Palmer, JD
Charles A. Palmer, JD
Public Arbitrator

03/20/02
Signature Date

/s/ Robert A. Vogler
Robert A. Vogler
Non-Public Arbitrator

03/21/02
Signature Date

03/21/02
Date of Service (For NASD office use only)

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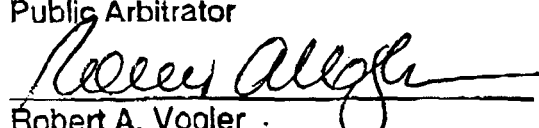
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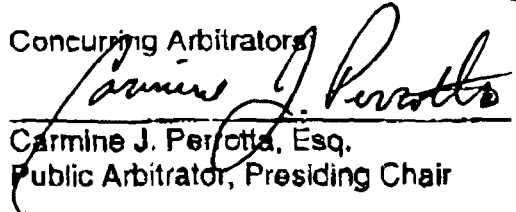
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Charles S. Palmer, JD
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Signature Date

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Signature Date

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Non-Public Arbitrator

Signature Date

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