

**Award**  
**NASD Dispute Resolution, Inc.**

NASD Dispute Resolution, Inc.  
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FEB 11 2002

In the Matter of the Arbitration Between

Name of Claimants

Martin C. Purpi and Susan L. Purpi

Case No. 01-01632

Name of Respondents

Raymond, James & Associates, Inc.;  
John O. Schreiber; and,  
Schreiber Investment Advisory Services

Hearing Site: Milwaukee, Wisconsin

**REPRESENTATION OF PARTIES**

Claimants Martin C. Purpi and Susan L. Purpi were represented by Robert L. Elliot, Esq., located in Milwaukee, Wisconsin.

Respondents Raymond, James & Associates, Inc.; John O. Schreiber; and Schreiber Investment Advisory Services were represented by John M. Norton, Esq. of Raymond, James & Associates, Inc., located in St. Petersburg, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: March 29, 2001.

Claimants signed the Uniform Submission Agreement: March 26, 2001.

Statement of Answer filed by Respondents on or about: May 24, 2001.

Respondent Raymond, James & Associates, Inc. signed the Uniform Submission Agreement: May 24, 2001.

Respondents John O. Schreiber and Schreiber Investment Advisory Services signed the Uniform Submission Agreement: May 21, 2001.

Claimants' Motion for Default Judgment and to Bar Counsel filed on or about: August 20, 2001.

Respondents' Response to the Motion for Default Judgment and to Bar Counsel filed on or about: August 30, 2001.

Respondents' Motion for Sanctions filed on or about: December 27, 2001.

Claimants' Response to Respondents' Motion for Sanctions filed on or about: December 28, 2001.

### **CASE SUMMARY**

Claimants asserted the following causes of action: misrepresentation, unsuitability and breach of fiduciary duty. These causes of actions resulted from:

1. Respondents misrepresented the commissions they received from the purchase of mutual funds and a bond timing service; and,
2. Respondents "over bought" by investing the Claimants in over 21 different mutual funds with back-end penalties for early withdrawal of the funds.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses:

1. Claimants approved, authorized, ratified and/or acquiesced in the alleged acts, omissions, and misrepresentations which form the basis of the subject complaint;
2. Claimants are estopped from recovering in this action because they were aware of the transactions in their accounts, approved the type of transactions that were performed and ratified the specific transactions which occurred;
3. Claimants are barred from recovery under the doctrine of waiver because they received timely reports of individual transactions and monthly account statements and waived any cause of action by accepting the confirmations and monthly statements without objection;
4. Claimants' cause of action is based on alleged misrepresentations by the Respondents, but Claimants are barred from recovery because they did not exercise reasonable care after discovery of the alleged wrongful conduct of Respondents. Any losses sustained by the Claimants were the result in whole or in part of their own contributory or comparative negligence; and
5. Claimants cannot recover from Respondents because the handling of their accounts was in accordance and compliance with applicable brokerage industry standards, guidelines and regulatory requirements.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$35,000.00
Punitive Damages	\$15,000.00
Attorneys' Fees	unspecified amount
Other Costs	unspecified amount.

Respondents requested that the arbitrator deny all claims asserted against them and that they be awarded all cost, fees and other relief deemed appropriate.

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

On September 11, 2001, the Arbitrator, after review of Claimants' Motion for Default Judgment

and Bar Counsel, denied both motions on the merits without costs to either side.

On January 8, 2002, the Arbitrator denied Respondents' Motion for Sanctions.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Schreiber Investment Advisory Services is liable for and shall pay to Claimants Martin C. Purpi and Susan L. Purpi the sum of \$3,200.00, plus interest in the amount of \$320.00 for a total of \$3,520.00;
2. In addition, Respondent Raymond, James & Associates, Inc. is liable for and shall pay to Claimants Martin C. Purpi and Susan L. Purpi the sum of \$800.00, plus interest in the amount of \$80.00 for a total of \$880.00;
3. Furthermore, Respondent Schreiber Investment Advisory Services is liable for and shall pay to Claimants Martin C. Purpi and Susan L. Purpi the sum of \$175.00 as reimbursement of the non-refundable claim filing fee;
4. The parties shall bear their own costs of arbitration, including attorneys' fee, except for those specifically enumerated herein; and,
5. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **FEES**

Pursuant to 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	= \$ 175.00
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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 firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge	= \$ 800.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$1,000.00

#### **Adjournment Fees**

Adjournments requested during these proceedings: None.

#### **Forum Fees and Assessments**

The arbitrator has the authority to assess forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator, including a pre-hearing

conference with the arbitrator, 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 13, 2001 1 session	
One (1) Hearing sessions x \$450.00	= \$ 450.00
Hearing Date: January 22, 2002 1 session	
Total Forum Fees	= \$ 900.00

The arbitrator has assessed \$900.00 of the forum fees to Respondent Schreiber Investment Advisory Services.

### EEE SUMMARY

Claimants Martin C. Purpi and Susan L. Purpi are liable for:

Initial Filing Fee	= \$ 175.00
Less payments	= \$ 675.00
Balance Due from NASD Dispute Resolution, Inc.	= \$ 500.00

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

Member Fees	= \$2,400.00
Less payments	= \$1,000.00
Balance Due NASD Dispute Resolution, Inc.	= \$1,400.00

Respondent Schreiber Investment Advisory Services is solely liable for:

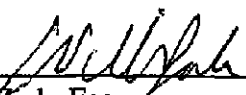
Forum Fees	= \$ 900.00
Less payments	= \$ 00
Balance Due NASD Dispute Resolution, Inc.	= \$ 900.00

All balances are due to NASD Dispute Resolution, Inc.

### ARBITRATION PANEL

Willis J. Zick, Esq. - Public Arbitrator, Presiding Chair

#### Arbitrator's Signature

  
Willis J. Zick, Esq.  
Public Arbitrator, Presiding Chair

2-8-02  
Signature Date

February 11, 2002  
Date of Service (For NASD-Dispute Resolution office use only)