

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Raymond, James & Associates, Inc.

Case No. 01-02609

Name of Respondent

Jeffrey T. Allen

Hearing Site: Indianapolis, Indiana

REPRESENTATION OF PARTIES

Claimant Raymond James & Associates, Inc. ("Claimant") was represented by Stephen W. Sutherlin, Esq. and Thomas W. Blessing, Esq. of Stewart & Irwin, P.C. located in Indianapolis, Indiana.

Respondent Jeffrey Allen ("Respondent") was not present and was not represented.

CASE INFORMATION

Claimant's Uniform Submission Agreement was signed on May 7, 2001 by Paul L. Matecki, Esq., Corporate Counsel for Raymond James & Associates, Inc.

Claimant's Statement of Claim was filed on or about May 11, 2001.

Respondent's Uniform Submission Agreement was signed on June 8, 2001. The NASD Regulation, Inc. Office of Dispute Resolution has no record of a Statement of Answer being filed by Respondent.

CASE SUMMARY

Claimant brought this action to recover damages for the alleged breach of an Advanced Compensation Agreement (the "Agreement") by Respondent. Claimant alleged that Respondent was employed with Claimant as a financial advisor in Claimant's Greenwood, Indiana branch

office on or about March 14, 2000. Claimant was paid a forgivable loan of Eighty-Two Thousand Four Hundred Thirty-Seven Dollars and Twenty-Five Cents (\$82,437.25) in exchange for executing the Agreement. The Agreement was executed on or about March 24, 2000.

Pursuant to the Agreement, Respondent would not have to repay the funds if he remained employed with Claimant for five (5) years. If Respondent did not remain employed with Claimant for at least five years, he would have to repay one-fifth (1/5) of the loan for each of the remaining years that he was not employed by Claimant before his 5-year anniversary. For example, if Respondent quit or was terminated after one (1) year, he would have to repay four-fifths (4/5) of the loan; after two (2) years, three-fifths (3/5), etc. Claimant also alleged that the Agreement required Respondent to pay interest on the unpaid principal at a rate of ten percent (10%) per annum. Claimant further alleged that the Agreement required Respondent to pay reasonable attorney fees and costs of arbitration in the event he breached the Agreement.

Claimant presented evidence that Respondent's employment with Claimant terminated on April 23, 2001. Therefore, Claimant contends that Respondent owes four-fifths (4/5) of the unpaid balance, or Sixty-Five Thousand Nine Hundred Forty-Nine Dollars and Eighty Cents (\$65,949.80) plus collection costs, including reasonable attorney fees.

Claimant presented evidence that it performed its obligations under the Agreement by remitting payment to Respondent in the form of a check payable to the order of Jeffrey Allen in the amount of \$82,437.25. Claimant also presented evidence that after Respondent was terminated on April 23, 2001, Claimant sent a written demand to Respondent for repayment of \$65,949.80. Claimant presented evidence that Respondent has never repaid the loan.

Respondent did not file a Statement of Answer. Instead, he attached to his Uniform Submission Agreement a Claim Information Sheet indicating that he was attempting to assert counterclaims for breach of contract and wrongful termination. Respondent's Claim Information Sheet requests damages of One Hundred Thousand Dollars (\$100,0000). He also filed, with his Uniform Submission Agreement, a list of controversy and security types indicating that he was attempting to assert counterclaims for breach of fiduciary duty and misrepresentation.

Respondent presented no evidence at the hearing.

RELIEF REQUESTED

Claimant requested an award for:

1. Compensatory damages representing the unforgiven principal balance due and payable under the Agreement in the amount of \$65,849.80;
2. Interest on the unpaid principal balance due of \$65,949.80 at the rate of 10% per annum from April 23, 2001 until the sum is paid in full;
3. Reasonable attorney fees; and,
4. Costs of these proceedings.

Respondent requested \$100,000.00 in compensatory damages.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators determined that Respondent was properly served with the Statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without the Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing, the Panel, pursuant to Rule 10330, has decided in full and final resolution of the issue submitted for determination as follows:

1. Respondent Jeffrey Allen is liable for and shall pay to Claimant Raymond James & Associates, Inc. compensatory damages in the amount of \$69,849.80, plus interest at the rate of 10% per annum from December 14, 2001 until the sum is paid in full;
2. Respondent Jeffrey Allen is liable for and shall pay to Claimant Raymond James & Associates, Inc. attorneys' fees in the sum of \$1,940.98. In deciding to award attorneys' fees, the panel considered the agreement executed by the parties, as well as arguments presented at the hearing, and determined that authority existed for an award of attorneys' fees to the Claimant;
3. Respondent Jeffrey Allen is liable for and shall pay to Claimant Raymond James & Associates, Inc. the sum of \$1,000.00 as reimbursement of the claim filing fee paid by the Claimant;
4. The counterclaim asserted by Respondent Jeffrey Allen is dismissed and denied in the entirety;
5. Any additional costs of arbitration, including additional attorneys' fees, shall be borne by the party incurring the cost; and
6. Any and all relief not specifically addressed herein 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

= \$1,000.00

Counter-claim filing fee

= \$ 225.00

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 person at the time of the events giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge

= \$1,000.00

Pre-hearing process fee

= \$ 600.00

Hearing process fee

= \$1,500.00

Adjournment Fees

Adjournments requested during these proceedings: None.

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 arbitrators, including a pre-hearing conference with one or more arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$750.00

= \$ 750.00

Pre-hearing conference: October 25, 2001 1 session

One (1) Hearing sessions x \$750.00

= \$ 750.00

Total Forum Fees

= \$1,500.00

The panel has assessed \$1,500.00 of the forum fees to Respondent Jeffrey Allen.

FEE SUMMARY

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

Initial Filing Fee

= \$1,000.00

Member Fees

= \$3,100.00

Total Fees

= \$4,100.00

Less payments

= \$2,750.00

Balance Due NASD Dispute Resolution, Inc.

= \$1,350.00

Respondent Jeffrey Allen is solely liable for:

Filing Fee

= \$ 225.00

Forum Fees

= \$1,500.00

Total Fees

= \$1,725.00

Less payments

= \$ 00

Balance Due NASD Dispute Resolution, Inc.

= \$1,725.00

All balances are due to NASD Dispute Resolution, Inc.

ARBITRATION PANEL

G. Donald Steel - Non-Public Arbitrator, Presiding Chair

Michael F. Fetsch, CFP - Non-Public Arbitrator

Joseph F. Touchton - Non-Public Arbitrator

Concurring Arbitrators' Signatures



G. Donald Steel
Non-Public Arbitrator, Presiding Chair

06 FEB 02


Signature Date

Michael F. Fetsch, CFP
Non-Public Arbitrator

Signature Date

Joseph F. Touchton
Non-Public Arbitrator

Signature Date

2/13/02 
Date of Service (For NASD-Dispute Resolution office use only)

Balance Due NASD Dispute Resolution, Inc.

= \$1,725.00

All balances are due to NASD Dispute Resolution, Inc.

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Michael F. Fetsch, CFP - Non-Public Arbitrator

Joseph F. Touchton - Non-Public Arbitrator

Concurring Arbitrators' Signatures

G. Donald Steel
Non-Public Arbitrator, Presiding Chair

Signature Date



Michael F. Fetsch, CFP
Non-Public Arbitrator

2/6/02

Signature Date

Joseph F. Touchton
Non-Public Arbitrator

Signature Date

2/13/02 

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

Balance Due NASD Dispute Resolution, Inc.

= \$1,725.00

All balances are due to NASD Dispute Resolution, Inc.

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Michael F. Fetsch, CFP - Non-Public Arbitrator

Joseph F. Touchton - Non-Public Arbitrator

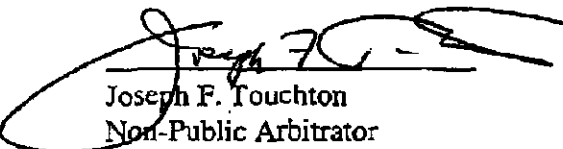
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G. Donald Steel
Non-Public Arbitrator, Presiding Chair

Signature Date

Michael F. Fetsch, CFP
Non-Public Arbitrator

Signature Date



Joseph F. Touchton
Non-Public Arbitrator

2-6-2002

Signature Date

2/13/02 ML

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