

**IN ARBITRATION
UNDER CHAPTER XVIII OF THE RULES
OF THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED**

IN THE MATTER OF)	
)	
Customer,*)	
)	
Claimant,)	DECISION
)	
v.)	File No. 01NM001
)	
Raymond James Financial,)	
Services, Inc.,)	
)	
Respondent.)	
)	

Representation

For Claimant: Richard J. Braun, Braun & Crotwell PLLC, Nashville, Tennessee
For Respondent: George L. Guerra, Raymond James Financial Services Inc., St. Petersburg, Florida

Pleadings

Statement of Claim, filed on or about:	April 11, 2001
Claimant's Submission Agreement, filed on or about:	April 23, 2001
Answer, filed on or about:	June 5, 2001
Respondent's Submission Agreement, filed on or about:	June 29, 2001
Motion to Dismiss claim, filed on or about:	July 6, 2001
Respondent's Trial Brief, filed on or about:	February 11, 2002
Pre-Hearing Brief of Claimant, filed on or about:	February 22, 2002

Hearing

The named parties appeared at the hearing sessions specified below, and had full opportunity to present arguments and evidence.

<u>Date(s)</u>	<u>No. of Sessions</u>	<u>Location</u>
October 18, 2001	1	Telephonic Pre-Hearing
February 12, 2002	1	Telephonic Pre-Hearing
February 25, 2002	2	Chicago, IL
February 26, 2002	2	Chicago, IL
February 27, 2002	1	Chicago, IL

* * Claimant requests confidentiality pursuant to CBOE Rule 18.31.

Summary of Issues

On April 11, 2001, Claimant filed a Statement of Claim against Raymond James Financial Services, Inc. ("Respondent") with respect to call option transactions on the common stock of Abbott Laboratories that were executed for her account in January 1998, August 1998, and May 1999. Claimant asserts that the transactions were recommended and executed by Michael K. McMahan, a registered representative and employee/agent of Respondent. Claimant alleges that she placed her confidence and trust in Mr. McMahan and reasonably relied on his recommendations. Claimant further asserts that the transactions were inappropriate recommendations and unauthorized under the terms of her account agreements, that she did not give her informed consent to the transactions, and that the recommendations and transactions were unsuitable. Claimant also alleges that the Respondent negligently mismanaged her account, that the transactions constituted breach of Respondent's fiduciary duty to Mrs. Elliott, and that Respondent failed to supervise the activities of its registered representative. Claimant requests an award against Respondent in the approximate amount of \$298,000, plus interest, attorneys' fees, and costs.

In its Answer to the Statement of Claim, Respondent asserts that any losses in Claimant's account were the result of normal market fluctuations and Claimant's own decisions to ignore Respondent's advice. Respondent denies all Claimant's allegations and requests that Claimant's claim be dismissed in its entirety, that Respondent be awarded all costs and fees incurred in the defense of this matter, and that Respondent be awarded attorney's fees. During the course of the hearing, Respondent amended its Answer to include a request that the Arbitrators issue an order to expunge any reference to this dispute from Mr. McMahan's CRD record.

Other Issues Resolved

During the course of the hearing, Respondent's motion regarding claim eligibility under CBOE Rule 18.6 (Time Limitation Upon Submission) and Respondent's motion to dismiss were denied.

Award*

After due deliberation and consideration of the hearing testimony, documentary evidence, and other submissions of the parties, the undersigned Arbitrators, in full and final resolution of all issues in controversy, award as follows:

1. The Arbitrators deny Claimant's request for compensatory damages in the approximate amount of \$298,000, plus interest, attorneys' fees, and costs.
2. The Arbitrators deny Respondent's request for costs, fees, and attorney's fees.
3. The Arbitrators unanimously grant Respondent's motion to expunge from CRD any reference to Mr. McMahan as the subject matter of this claim.
4. The Arbitrators assess forum fees as set forth below.

* Pursuant to CBOE Rule 18.31, all monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction.

Forum Fees

Pursuant to Exchange Rule 18.33, the Arbitrators assess the following forum fees:

Initial Filing Fee – Claim	\$200
Pre-Hearing Fees (2 x \$300)	\$600
Adjournment Fee	\$750
Hearing Session Fees (5 x \$750)	<u>\$3,750</u>
Total	\$5,300

The Arbitrators determined to divide the forum fees between the parties as follows:

1. Respondent is liable for and shall pay to the Exchange, the amount of \$4,350 in forum fees (\$5,300 minus the forum fees previously submitted by Claimant).
2. The Exchange shall retain the non-refundable filing fee in the amount of \$200 and the hearing session deposit in the amount of \$750 previously submitted by Claimant.

/s/ Stephen C. Esposito
Stephen C. Esposito, Chair and Public Arbitrator

March 22, 2002
Date

/s/ Bradford S. Allen
Bradford S. Allen, Public Arbitrator

March 28, 2002
Date

/s/ Gregg M. Rzepczynski
Gregg M. Rzepczynski, Industry Arbitrator

March 25, 2002
Date