

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Yvonne A. Schwartz, Claimant v. Judith A. McGee, McGee Financial Group, Inc., McGee Financial Strategies, Inc., and Raymond James Financial Services, Inc., Respondents

Case Number: 02-04855

Hearing Site: Portland, Oregon

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Nature of Dispute: Customer v. Associated Person, Non-Member and Member Firm

**REPRESENTATION OF PARTIES**

For Claimant:

Ronald H. Hoevet, Esq.  
Per C. Olson, Esq.  
Hoevet & Boise, PC  
Portland, Oregon

For Respondents:

Thomas C. Sand, Esq.  
Justin C. Sawyer, Esq.  
Miller Nash LLP  
Portland, Oregon

**CASE INFORMATION**

Statement of Claim filed: August 14, 2002

Claimant Yvonne A. Schwartz' Uniform Submission Agreement filed:

Joint Statement of Answer filed by Respondents: November 4, 2002

Respondent Judith A. McGee's Uniform Submission Agreement signed: None Submitted

Respondent McGee Financial Group, Inc.'s Uniform Submission Agreement signed: None submitted

Respondent McGee Financial Strategies, Inc.'s Uniform Submission Agreement signed: None submitted

Respondent Raymond James Financial Services, Inc.'s Uniform Submission Agreement signed: September 28, 2002

### **CASE SUMMARY**

In the Statement of Claim, Claimant alleged breach of fiduciary duty, professional negligence, violations of Oregon Securities Act, and negligent supervision involving the purchase of unspecified securities.

Respondents denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and set forth the following affirmative defenses: failure to state a claim for relief, lack of causation, failure to mitigate damages, that McGee acted in good faith, ratification, waiver, estoppel, contributory negligence and comparative fault.

### **RELIEF REQUESTED**

Claimant requested compensatory damages in the sum of \$1.5 million, attorneys' fees, costs and disbursements.

Respondents requested dismissal of the Claimant's claims, costs, disbursements, and attorney's fees.

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

On or about January 12, 2004, NASD Dispute Resolution received notice of the settlement of this matter.

Respondent Judith A. McGee did not file with the NASD Dispute Resolution a properly executed submission agreement but is required to submit to arbitration pursuant to the Code and having answered the claim, is bound by the determination of the Panel on all issues submitted.

Respondents McGee Financial Group, Inc. and McGee Financial Strategies, Inc. are not members of the NASD and did not file with NASD Dispute Resolution properly executed submission agreements.

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

### **STIPULATION**

It is hereby stipulated by Claimant and the individual Respondents, by and through their undersigned attorneys of record, that:

- 1) Claimant has entered into a confidential settlement agreement with all Respondents. All of Claimant's claims asserted against the Respondents are hereby dismissed with prejudice.

2) All references to the above captioned arbitration in Respondent Judith A. McGee's registration records maintained by the NASD Central Registration Depository ("CRD") shall be expunged, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Judith A. McGee must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

3) Claimant does not object to the panel rendering the following award:

### **AWARD**

After considering the pleadings and stipulation of the parties, the Panel decided in full and final resolution of the issues submitted for determination and find as follows:

- 1) Claimant's claims are dismissed in their entirety.
- 2) The parties have agreed to settle this matter for a sum certain to be paid by Respondents pursuant to a settlement agreement separately executed by the parties.
3. All parties are to bear their own costs and attorneys' fees;
4. The Panel recommends that all references to the above captioned arbitration from Respondent Judith A. McGee's registration records maintained by the NASD Central Registration Depository ("CRD") shall be expunged, with the understanding that pursuant to NASD Notice to Members 99-09 and 99-54, Respondent Judith A. McGee must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.
5. All other relief requested and not expressly granted is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 500.00
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### **Member Fees**

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Raymond James Financial Services, Inc. is a party and the following fees are assessed:

Member Surcharge	= \$2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$5,000.00</u>
<b>Total Member Fees</b>	<b>= \$8,550.00</b>

**Adjournment Fees**

The following adjournment fees are assessed:

September 23, 2003, joint request for adjournment by all parties to pursue NASD  
mediation Waived

**Forum Fees and Assessments**

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Panel/Chair. The following fees are assessed:

(2) Pre-hearing conference sessions with the Panel @ \$1,200.00/session = \$2,400.00

Pre-hearing conferences:	February 11, 2003	1 session	
	September 8, 2003	1 session	
<b>Total Forum Fees</b>			<b>= \$2,400.00</b>

1. The Panel assessed \$1,200.00 of the forum fees to Claimant.
2. The Panel assessed \$1,200.00 of the forum fees jointly and severally to Respondents, Judith A. McGee, McGee Financial Group, Inc., McGee Financial Strategies, Inc., and Raymond James Financial Services, Inc.

**Fee Summary**

1. Claimant is charged with the following fees and costs:

Initial Filing Fee	= \$ 500.00
<u>Forum Fees</u>	<u>= \$ 1,200.00</u>
Total Fees	= \$ 1,700.00
<u>Less payments</u>	<u>= \$(1,700.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>
2. Respondent Raymond James Financial Services, Inc. is charged with the following fees and costs:

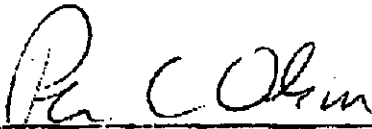
Member Fees	= \$ 8,550.00
<u>Less payments</u>	<u>= \$(8,550.00)</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 0.00</b>
3. Respondents Judith A. McGee, McGee Financial Group, Inc., McGee Financial Strategies, Inc., and Raymond James Financial Services, Inc. are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 1,200.00
<u>Adjournment Fees</u>	<u>Waived</u>
<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 1,200.00</b>

All balances are payable to NASD Dispute Resolution and are payable upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

By and through their undersigned counsel, the parties stipulate to entry of this Stipulated Award.

Yvonne A. Schwartz  
By her attorney:

  
\_\_\_\_\_  
Ronald H. Hoevet  
Per C. Olson  
Hoevet & Boise, PC  
1000 S.W. Broadway, Suite 1500  
Portland, Oregon 97205  
(503) 228-0497

2/27/04

Judith A. McGee, McGee Financial Group,  
Inc., McGee Financial Strategies, Inc., and  
Raymond James Financial Services, Inc.  
By their attorney:

\_\_\_\_\_  
Thomas C. Sand  
Justin C. Sawyer  
Miller Nash LLP  
111 S.W. Fifth Avenue, Suite 3400  
Portland, Oregon 97204  
(503) 224-5858


By and through their undersigned counsel, the parties stipulate to entry of this Stipulated Award.

Yvonne A. Schwartz  
By her attorney:

Judith A. McGee, McGee Financial Group,  
Inc., McGee Financial Strategies, Inc., and  
Raymond James Financial Services, Inc.  
By their attorney:

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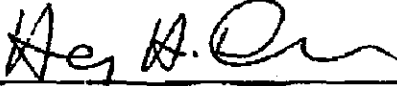
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Thomas C. Sand  
Justin C. Sawyer  
Miller Nash LLP  
111 S.W. Fifth Avenue, Suite 3400  
Portland, Oregon 97204  
(503) 224-5858

**ARBITRATION PANEL**

Henry H. Drummonds, Esq.	-	Public Arbitrator, Presiding Chair
Clyde Fahlman	-	Public Arbitrator
Gregory Jay Gursey	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

  
\_\_\_\_\_  
Henry H. Drummonds, Esq.  
Chair, Public Arbitrator

3-24-04  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Clyde Fahlman  
Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Gregory Jay Gursey  
Non-Public Arbitrator

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service

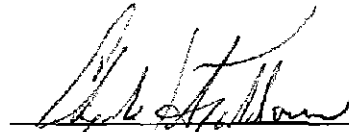
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Clyde Fahlman	-	Public Arbitrator
Gregory Jay Gurse	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Henry H. Drummonds, Esq.  
Chair, Public Arbitrator

Signature Date



Clyde Fahlman  
Public Arbitrator

3-26-2004

Signature Date

Gregory Jay Gurse  
Non-Public Arbitrator

Signature Date

April 7, 2004  
Date of Service



**ARBITRATION PANEL**

Henry H. Drummonds, Esq.  
Clyde Fahlman  
Gregory Jay Gurse

Public Arbitrator, Presiding Chair  
Public Arbitrator  
Non-Public Arbitrator

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Henry H. Drummonds, Esq.  
Chair, Public Arbitrator

\_\_\_\_\_  
Signature Date

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Clyde Fahlman  
Public Arbitrator

\_\_\_\_\_  
Signature Date

  
\_\_\_\_\_  
Gregory Jay Gurse  
Non-Public Arbitrator

3/22/04  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Date of Service