

**Stipulated Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Ludwig Muller

Case Number: 02-05108

Name of the Respondents  
Raymond James Financial Services, Inc.  
Richard E. Mayer

Hearing Site: Raleigh, NC

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Nature of the Dispute: Customer v. Member and Associated Person.

**REPRESENTATION OF PARTIES**

Claimant, Ludwig Muller, hereinafter referred to as "Claimant", was represented by William B. Little, Esq., Little & Little, PLLC, Raleigh, North Carolina.

Respondents, Raymond James Financial Services, Inc. ("RJFS") and Richard E. Mayer ("Mayer"), hereinafter collectively referred to as "Respondents", were represented by Robert C. Stokes, Esq., Raymond James Financial Services, Inc., St. Petersburg, Florida.

**CASE INFORMATION**

Statement of Claim filed on August 30, 2002.

Claimant signed the Uniform Submission Agreement on August 29, 2002.

Statement of Answer filed by Respondents on October 31, 2002.

A representative of Respondent RJFS signed the Uniform Submission Agreement on September 21, 2002.

Respondent Mayer signed the Uniform Submission Agreement on September 17, 2002.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: breach of fiduciary duty, fraud, omission, misrepresentation, breach of contract, negligence, suitability, failure to supervise, and *respondeat superior*. The causes of action relate to the purchase and sale of various mutual funds.

Unless specifically admitted in their Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: authorization, ratification, estoppel, Claimant's claims are barred by the doctrines of laches and waiver, failure to mitigate damages, assumption of the risk, Claimant's claims are barred by the statutes of limitations, and failure to state a claim upon which relief may be granted.

### **RELIEF REQUESTED**

**Claimants requested:**

Compensatory Damages	\$ 80,496.86
Punitive Damages	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that all claims be dismissed, that they be awarded all costs, and forum fees in connection with the arbitration, and that the Arbitration Panel (the "Panel") order the expungement of all reference to this matter from Respondent Mayer's Central Registration Depository ("CRD") record.

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

Prior to the hearing, the Parties fully and finally settled all claims by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

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

### **AWARD**

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. That the parties have amenable resolved their differences and have requested this Stipulated Award;
2. That Claimants have dismissed all claims with prejudice against Respondents;
3. That the Panel recommends the expungement of all reference to the above-captioned arbitration from Respondent Mayer's registration records maintained by the CRD with the understanding that, pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Mayer must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
4. That each party shall bear its own costs and expenses, including attorneys' fees, except as Fees are specifically addressed below; and,
5. That 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 will retain or collect the non-refundable filing fees for each claim:

Initial 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. Accordingly, Respondent RJFS is a party.

Member surcharge = \$ 1,100.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$ 1,700.00

#### **Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

January 27-29, 2004, adjournment by Claimants waived

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

The Panel has assessed forum fees for each session conducted. A 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 @ \$ 450.00 = \$ 450.00  
Pre-hearing conference: August 26, 2003 1 session

Two (2) Pre-hearing sessions with Panel @ \$ 750.00 = \$ 1,500.00  
Pre-hearing conference: June 27, 2003 1 session  
January 7, 2004 1 session

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Total Forum Fees = \$ 1,950.00

1. The Panel has assessed \$ 975.00 of the forum fees to Claimant.
2. The Panel has assessed \$ 975.00 of the forum fees jointly and severally to Respondents.

#### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Claimant, requested copy of file documents = \$ 8.75

**Fee Summary**

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$ 975.00
Administrative Costs	= \$ 8.75
Total Fees	= \$ 1,208.75
Less payments	= \$ 983.75
Balance Due NASD Dispute Resolution	= \$ 225.00

2. Respondent RJFS is assessed and shall pay:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally assessed and shall pay:

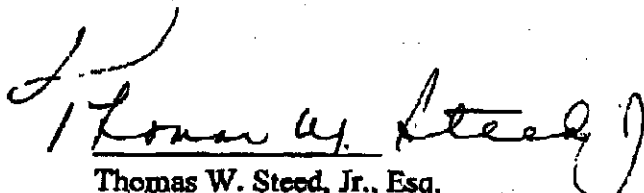
Forum Fees	= \$ 975.00
Total Fees	= \$ 975.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 975.00

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

**ARBITRATION PANEL**

Thomas W. Steed, Jr., Esq.	-	Public Arbitrator, Presiding Chairperson
Wayne Parker	-	Public Arbitrator, Panelist
Thomas C. Looney	-	Non-Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**



Thomas W. Steed, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

May 19, 2004  
Signature Date

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Wayne Parker  
Public Arbitrator, Panelist

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

\_\_\_\_\_  
Thomas C. Looney  
Non-Public Arbitrator, Panelist

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

June 2, 2004  
Date of Service (For NASD Dispute Resolution office use only)

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Thomas W. Steed, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

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

Wayne Parker  
Wayne Parker  
Public Arbitrator, Panelist

5/28/04  
Signature Date

\_\_\_\_\_  
Thomas C. Looney  
Non-Public Arbitrator, Panelist

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

June 2, 2004  
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

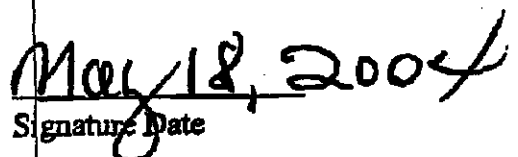
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Thomas W. Steed, Jr., Esq.  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Wayne Parker  
Public Arbitrator, Panelist

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

  
Thomas C. Looney  
Non-Public Arbitrator, Panelist

  
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