

Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Joanne McHugh, IRA (Claimant) v. Matthew G. Kovalcik and Raymond James Financial Services, Inc. (Respondents)

Case Number: 02-05510

Hearing Site: Columbus, OH

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

REPRESENTATION OF PARTIES

Claimant Joanne McHugh ("McHugh") hereinafter referred to as "Claimant": David P. Meyer, Esq., David P. Meyer Co., L.P.A., Columbus, OH.

Respondents Raymond James Financial Services, Inc. ("RJFS") and Matthew G. Kovalcik ("Kovalcik"), hereinafter collectively referred to as "Respondents": Robert C. Stokes, III, Esq., Raymond James Financial Services, Inc., St. Petersburg, FL.

CASE INFORMATION

Statement of Claim filed on or about: September 10, 2002.

Claimant signed the Uniform Submission Agreement: July 30, 2002.

Joint Statement of Answer filed by Respondents on or about: December 6, 2002.

RJFS signed the Uniform Submission Agreement: October 8, 2002.

Kovalcik did not sign a Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: Violations of the 1934 Act; violation of Ohio common law; fraud; negligence; breach of contract; breach of fiduciary duty; respondeat superior; violation of NASD and NYSE rules. The causes of action relate to the purchase and sale of equities in the telecommunications and technology sectors.

Unless specifically admitted in its Answer, Respondents denied the allegations of wrongdoing set forth in the Statement of Claim and asserted the following defenses:

1. Claimant's claims are barred by the applicable statutes of limitations, including, but not limited to, the one-year statute of limitations for all claims derivative of Section 10(b) of the Securities Exchange Act of 1934.

2. Claimant's claims are barred by the doctrine of laches.
3. Claimant's claim for negligence fails to state a cause of action where the predicate for such action lies in contract.
4. Claimant assumed the risks of investing in the securities and thus has no basis for any claim against Respondent.
5. Claimant approved, authorized, ratified and/or acquiesced in the alleged acts, omissions, and misrepresentations, which form the basis of the subject complaint.
6. Claimant is estopped from recovering in this action because she was aware of the transactions in his account, approved the type of transactions that were performed and ratified the specific transactions which occurred.
7. Claimant is barred from recovery under the doctrine of waiver because she received timely personal reports of individual transactions and waived any cause of action against Respondents by failing to object to any of them.
8. Claimant cannot recover from Respondent because the handling of her account was in accordance and compliance with applicable brokerage industry standards, guidelines and regulatory requirements.
9. Any injury, loss or damage to the Claimant was the result of superseding or intervening causes beyond the control of Respondent.
10. Any injury, loss or damage to the Claimant was the result of her own conduct and therefore may not be awarded against Respondent.
11. Claimant failed to mitigate the consequences of any alleged misrepresentation, negligence or wrongdoing by Respondent, which could have been mitigated.

RELIEF REQUESTED

Claimant requested an award in their favor and against the Respondents as follows:

- (A) for the sum of at least \$122,195.00 or such other amount as may be determined at the hearing of this matter (several account statements at the time of the drafting of this Statement of Claim were not available to counsel), representing Claimant's aggregate

compensatory damages for the conduct set forth in the Statement of Claim;

- (B) for the sum to be determined at the hearing of this matter, representing the imposition of all costs, forum fees, and reasonable fees of Claimant's counsel that are associated with the initiation and prosecution of this matter; and
- (C) for punitive damages; and
- (D) for such other and further relief as may be deemed just, proper, and equitable under the facts and circumstances presented.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Kovalcik did not file with NASD Dispute Resolution a properly executed Uniform 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.

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.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

The parties entered into an agreement to present to the Panel a Stipulated Award. Now, in lieu of a hearing and upon motion of both parties for an entry of an award, the written stipulation thereto, the Panel grants the motion and enters this award granting the following relief:

1. This matter has been settled pursuant to a confidential settlement agreement.
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Kovalcik's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Kovalcik must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;

3. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below, and,
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

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 = \$ 300.00

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, Raymond James Financial Services, Inc. is a party.

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

Forum Fees and Assessments

The Panel assesses 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 the arbitrators, that lasts four (4) hours or less. Forum fees associated with these proceedings are:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00	= \$ 450.00
Pre-hearing conference: August 12, 2003 1 session	

One (1) Pre-hearing conference session with the Panel @ \$1,125.00	= \$1,125.00
<u>Pre-hearing conference: March 28, 2003 1 session</u>	<u></u>
Total Forum Fees	= \$1,575.00*

**Please be advised that, pursuant to Rule 10332(f) of the Code of Arbitration Procedure, NASD is retaining the total initial amount of the hearing session deposited by the Claimant because this office was notified by the parties that they settled or withdrew this matter within 8 business days of the first scheduled hearing session.*

1. The Panel has assessed \$1,125.00* of the forum fees against Claimant.

2. The Panel has assessed \$787.50 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$1,125.00</u>
Total Fees	= \$1,425.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

2. RJFS is solely liable for:

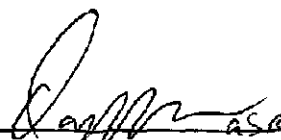
<u>Member Fees</u>	<u>= \$5,200.00</u>
Total Fees	= \$5,200.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$ 787.50</u>
Total Fees	= \$ 787.50
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 787.50

All balances are due and payable to NASD Dispute Resolution

Parties' Signatures


Joanne McHugh
Claimant

12/5/03
Signature Date

Raymond James Financial Services, Inc.
Respondent

Signature Date

Matthew G. Kovalcik
Respondent

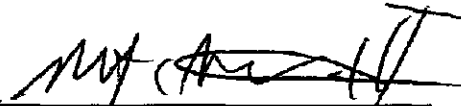
Signature Date

Parties' Signatures

Joanne McHugh
Claimant

Signature Date


Robert
Stokes




Raymond James Financial Services, Inc.
Respondent



Signature Date



Matthew G. Kovalcik
Respondent



Signature Date

ARBITRATION PANEL

W. Sean Kelleher, Esq.	-	Public Arbitrator, Presiding Chair
Arnold M. Malech, Esq.	-	Public Arbitrator
Charles L. Abraham	-	Non-Public Arbitrator

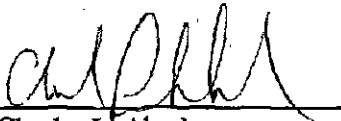
Concurring Arbitrators' Signatures

W. Sean Kelleher, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Arnold M. Malech, Esq.
Public Arbitrator

Signature Date



Charles L. Abraham
Non-Public Arbitrator

1/20/04

Signature Date

February 26, 2004
Date of Service (For NASD office use only)

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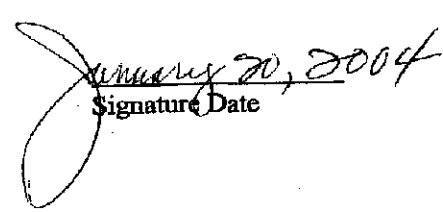
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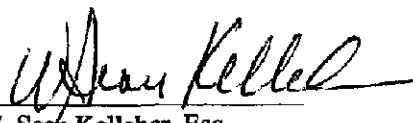
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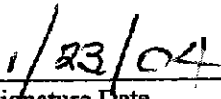
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