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

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In the Matter of the Arbitration Between:

Names of the Claimants

Case Number: 02-05851

Bennett and Rita Musick

Bennett Musick

Bennett Musick IRA

Rita Musick

Rita Musick IRA

Name of the Respondent

Hearing Site: Orlando, Florida

Raymond James Financial Services, Inc.

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**REPRESENTATION OF PARTIES**

For Bennett and Rita Musick, Bennett Musick, Bennett Musick IRA, Rita Musick, and Rita Musick IRA, collectively referred to as "Claimants": Philip J. Snyderburn, Esq., Snyderburn, Rishoi & Swann, Orlando, Florida.

For Raymond James Financial Services, Inc. ("Respondent"): Robert C. Stokes, III, Assistant Corporate Counsel and Assistant Vice President with Raymond James, St. Petersburg, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: September 26, 2002.

Claimants signed the Uniform Submission Agreement on: September 27, 2002.

Statement of Answer filed by Respondent on or about: December 9, 2002.

Respondent signed the Uniform Submission Agreement on: October 16, 2002.

**CASE SUMMARY**

Claimants alleged the following causes of action: 1) breach of fiduciary duty; 2) negligence; and 3) breach of contract. The causes of action relate to investments in various securities, including shares of common stock in America Online and Microsoft Corp.

Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

**RELIEF REQUESTED**

Claimants requested: 1) compensatory damages in the amount of \$217,000.00; 2) punitive damages; 3) interest; 4) costs; and 5) such other relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent requested: 1) dismissal of the Statement of Claim in its entirety; 2) costs; 3) expungement of all reference to the above captioned arbitration from Respondent's registration records maintained by the NASD Central Registration Depository ("CRD"); and 4) such other relief the Panel deemed just and proper.

**OTHER ISSUES CONSIDERED AND DECIDED**

At the evidentiary hearing, Respondent moved the Panel for the entry of a directed verdict. The Panel denied the motion.

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**

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims, including any statutory claims, are denied in their entirety.
2. Claimants' request for punitive damages is denied.
3. Respondent's request for expungement is denied.
4. Any and all claims for relief not specifically addressed herein are denied.

**FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

**Filing Fees**

NASD 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. Accordingly, Respondent is a member firm and a party.

Member surcharge = \$1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$2,750.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

**Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

There were no injunctive relief fees assessed during these proceedings.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00/session = \$ 900.00

|                          |               |           |
|--------------------------|---------------|-----------|
| Pre-hearing conferences: | June 10, 2003 | 1 session |
|                          | June 18, 2003 | 1 session |

One (1) Pre-hearing session with Panel @ \$1,125.00 per session = \$1,125.00

|                         |               |           |
|-------------------------|---------------|-----------|
| Pre-hearing conference: | March 3, 2003 | 1 session |
|-------------------------|---------------|-----------|

Four (4) Hearing sessions @ \$1,125.00 per session = \$4,500.00

|                |                |            |
|----------------|----------------|------------|
| Hearing Dates: | August 6, 2003 | 2 sessions |
|                | August 7, 2003 | 2 sessions |

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Total Forum Fees = \$6,525.00

The Panel has assessed forum fees in the amount of \$3,262.50 jointly and severally to Claimants.

The Panel has assessed forum fees in the amount of \$3,262.50 to Respondent.

**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 not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred during these proceedings.

**Fee Summary**

Claimants are jointly and severally liable for:

|                    |              |
|--------------------|--------------|
| Initial Filing Fee | = \$ 300.00  |
| Forum Fees         | = \$3,262.50 |
| Total Fees         | = \$3,562.50 |
| Less payments      | = \$1,425.00 |
| Balance Due NASD   | = \$2,137.50 |

Respondent is solely liable for:

|                  |              |
|------------------|--------------|
| Member Fees      | = \$5,200.00 |
| Forum Fees       | = \$3,262.50 |
| Total Fees       | = \$8,462.50 |
| Less payments    | = \$5,200.00 |
| Balance Due NASD | = \$3,262.50 |

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

**ARBITRATION PANEL**

|                    |   |  |
|--------------------|---|--|
| Joe S. Tarrer, III | - | Public Arbitrator, Presiding Chairperson |
| Cindy L. Anderson  | - | Public Arbitrator                        |
| David C. Lockhart  | - | Non-Public Arbitrator                    |

**Concurring Arbitrators' Signatures**

\_\_\_\_\_/s/\_\_\_\_\_  
Joe S. Tarrer, III  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
August 21, 2003  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
Cindy L. Anderson  
Public Arbitrator

\_\_\_\_\_  
August 19, 2003  
Signature Date

\_\_\_\_\_/s/\_\_\_\_\_  
David C. Lockhart  
Non-Public Arbitrator

\_\_\_\_\_  
August 24, 2003  
Signature Date

\_\_\_\_\_  
August 25, 2003  
Date of Service (For NASD use only)

NASD Dispute Resolution  
 Arbitration No. 02-05851  
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| David C. Lockhart  | - | Non-Public Arbitrator                    |

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Joe S. Tarrer, III  
 Public Arbitrator, Presiding Chairperson

8.21.03  
 Signature Date

Cindy L. Anderson  
 Public Arbitrator

Signature Date

David C. Lockhart  
 Non-Public Arbitrator

Signature Date

Date of Service (For NASD use only)

NASD Dispute Resolution  
Arbitration No. 02-05851  
Award Page 4

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| David C. Lockhart  | - | Non-Public Arbitrator                    |

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\_\_\_\_\_  
Joe S. Tarrer, III  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Cindy L. Anderson  
Public Arbitrator

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

\_\_\_\_\_  
8/19/03  
Signature Date

\_\_\_\_\_  
David C. Lockhart  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (For NASD use only)

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NASD

**NASD Dispute Resolution****Arbitration No. 02-05851****Award Page 4****Fee Summary****Claimants are jointly and severally liable for:**

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