

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Heinz Guenther Pink, Claimant v. Raymond James Financial Services, Inc., John H. Chilcott and
Lance C. Newby, Respondents

Lance C. Newby, Counter-Claimant v. Heinz Guenther Pink, Counter-Respondent

Lance C. Newby, Third-Party Claimant v. Jonathan Masura Emura, Ching-Hui "Candy" Wang,
and Shawn B. McKay, Third-Party Respondents

Case Number: 02-06313

Hearing Site: Honolulu, Hawaii

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

Nature of the Dispute: Associated Person v. Customer

Nature of the Dispute: Associated Person v. Associated Persons

REPRESENTATION OF PARTIES

For Heinz Guenther Pink ("Pink"):

James P. Dander, Esq.
Jay Suemori, Esq.
Dandar & Suemori
Honolulu, Hawaii

For Raymond James Financial Services, Inc.
("Raymond James"):

Chad Weaver, Esq.
Edgerton & Weaver LLP
Hermosa Beach, California

For John H. Chilcott ("Chilcott"):

John H. Chilcott
In Propria Persona
Honolulu, Hawaii

For Lance C. Newby ("Newby"):

Lance C. Newby
In Propria Persona
Quepos, Costa Rica

For Jonathan Masura Emura ("Emura"):

James P. Dandar, Esq.
Dandar & Suemori
Honolulu, Hawaii

For Ching-Hui "Candy" Wang ("Wang"):

John J. Rapp, Esq.
Law Offices of John J. Rapp
Honolulu, Hawaii

Shawn B. McKay ("McKay"):

No appearance

CASE INFORMATION

Statement of Claim filed by Pink: October 12, 2002

Pink's Uniform Submission Agreement signed: October 12, 2002

Statement of Answer filed by Raymond James: February 4, 2003

Raymond James' Uniform Submission Agreement signed: November 27, 2002

Joint Statement of Answer filed by Chilcott and Newby: January 10, 2003

Chilcott's Uniform Submission Agreement signed: January 7, 2003

Newby's Uniform Submission Agreement signed: January 7, 2003

Counterclaim filed by Newby: January 10, 2003

Statement of Answer to Counterclaim filed by Pink: January 20, 2003

Third-Party Claim filed by Newby: January 10, 2003

Statement of Answer to Third-Party Claim filed by Wang: September 19, 2003

CASE SUMMARY

Heinz Guenther Pink, Claimant v. Raymond James Financial Services, Inc., John H. Chilcott and Lance C. Newby, Respondents

Pink's Statement of Claim alleged breach of fiduciary duty, unauthorized trading, unsuitable investments, and failure to supervise. Pink's allegations concerned the purchase and sale of certain bonds, including but not limited to those issued by the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, PNC Mortgage Securities Corporation, Wells Fargo Mortgage Backed Securities, First Horizon Asset Securities, Citicorp Mortgage Securities, GE Capital Mortgage Services, and Chase Mortgage Finance Corporation

Raymond James denied the allegations of wrongdoing set forth in the Pink's Statement of Claim and asserted various affirmative defenses.

Chilcott and Newby denied the allegations of wrongdoing set forth in Pink's Statement of Claim and asserted various affirmative defenses.

Lance C. Newby, Counter-Claimant v. Heinz Guenther Pink, Counter-Respondent

In his Counterclaim against Pink, Newby alleged libel and slander.

Pink denied the allegations of wrongdoing set forth in Newby's Counterclaim and asserted various affirmative defenses.

Lance C. Newby, Third-Party Claimant v. Jonathan Masura Emura, Ching-Hui "Candy" Wang, and Shawn B. McKay, Third-Party Respondents

In his Third-Party Claim against Wang, Emura, and McKay, Newby alleged libel and slander.

Wang denied the allegations of wrongdoing set forth in Newby's Third Party Claim.

RELIEF REQUESTED

Heinz Guenther Pink, Claimant v. Raymond James Financial Services, Inc., John H. Chilcott and Lance C. Newby, Respondents

Pink requested compensatory damages in the amount of \$167,820.79, punitive damages in the amount of \$ 300,000.00, interest in the amount of \$12,468.00, and costs, including attorney's fees.

Raymond James Financial Service, Inc. requested dismissal of Pink's Statement of Claim.

Chilcott and Newby requested dismissal of Pink's Statement of Claim, and costs.

Lance C. Newby, Counter-Claimant v. Heinz Guenther Pink, Counter-Respondent

Newby requested unspecified compensatory damages and costs, including attorney's fees.

Pink requested dismissal of Newby's Counterclaim and costs, including attorney's fees.

Lance C. Newby, Third-Party Claimant v. Jonathan Masura Emura, Ching-Hui "Candy" Wang, and Shawn B. McKay, Third-Party Respondents

Newby requested unspecified compensatory damages and costs, including attorney's fees.

Wang requested dismissal of Newby's Third-Party Claim.

OTHER ISSUES CONSIDERED AND DECIDED

Third-Party Respondents Emura and McKay did not file with the NASD Dispute Resolution properly executed submission agreements but are required to submit to arbitration pursuant to the Code and are bound by the determination of the Panel on all issues submitted.

On October 6, 2003, Newby withdrew his Third-Party Claim against Shawn B. McKay.

On August 10, 2004, Wang moved the Panel to dismiss the Newby's Third-Party Claim. Newby filed no opposition. On September 2, 2004, the Panel granted Wang's Motion to Dismiss without prejudice.

On April 4, 2005, Pink moved the Panel to consolidate the above case with NASD arbitration case numbers 04-02121, 04-02844, and 04-04038. Raymond James filed an Opposition to the motion on April 4, 2005. On April 12, 2005, after a pre-hearing conference considering the issue, the Panel denied Pink's Motion to Consolidate.

During the hearing, Newby withdrew his Third-Party Claim against Emura.

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, testimony, and evidence presented at the hearing, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant Heinz Guenther Pink's claims are denied in their entirety.
- 2) Lance C. Newby's Counterclaim and Third-Party Claim are dismissed with prejudice.
- 3) The parties shall bear their respective costs, including attorney's fees.
- 4) All other relief requested and not expressly granted, including Mr. Pink's request for punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Pink's Initial claim filing fee	= \$ 300.00
Newby's Counterclaim/ Third Party filing fee	= \$ 250.00

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	= \$ 1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$ 2,750.00
Total Member Fees	= \$ 5,200.00

Adjournment Fees

The following adjournment fees are assessed:

October 6-10, 2003 adjournment requested by Chilcott	= \$1,125.00
September 13-17, 2004 adjournment requested by the parties	= \$1,125.00

1. The Panel assessed the \$1,125.00 adjournment fee for the October 6-10, 2003 hearing dates entirely to Chilcott.
2. Pursuant to Rule 10403(b) of the Code, the adjournment fee for the September 13-17, 2004 hearing dates is 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 or the parties and the Chair. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$ 450.00/session	= \$ 450.00
Pre-hearing conference: August 7, 2003 1 session	

Four (4) Pre-hearing conference sessions with the Panel @ \$1,125.00/session = \$4,500.00

Pre-hearing conferences: May 9, 2003 1 session
 December 22, 2003 1 session
 April 11, 2005 1 session
 August 31, 2005 1 session

Three (3) Hearing sessions @ \$1,125.00/session = \$3,375.00

Hearings: February 8, 2006 2 sessions
 February 9, 2006 1 sessions

Total Forum Fees = **\$8,325.00**

1. The Panel assessed \$4,162.50 of the forum fees to Claimant Heinz Guenther Pink.
2. The Panel assessed \$4,162.50 of the forum fees jointly and severally to Respondents Raymond James Financial Services, Inc., John H. Chilcott and Lance C. Newby.

Fee Summary

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

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 4,162.50
Total Fees	= \$ 4,462.50
Less payments	= \$(1,575.00)
<u>Less unused mediation deposit</u>	<u>= \$ (156.25)</u>
Balance Due NASD Dispute Resolution	= \$ 2,731.25

2. Raymond James Financial Service, Inc. is charged with the following fees and costs:

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

3. Respondent John H. Chilcott is charged with the following fees and costs:

Adjournment Fee	= \$ 1,125.00
<u>Less payments</u>	<u>= \$(1,125.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

4. Respondent Lance C. Newby is charged with the following fees and costs:

Counterclaim/Third-Party Claim Filing Fee	= \$ 250.00
<u>Less payments</u>	<u>= \$ (250.00)</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

5. Respondents Raymond James Financial Services, Inc., John H. Chilcott and Lance C. Newby are charged jointly and severally with the following fees and costs:

Forum Fees	= \$ 4,162.50
Less payment by Respondent Lance C. Newby	= \$(1,000.00)
<u>Less unused mediation deposit by Raymond James</u>	<u>= \$ (156.25)</u>
Balance Due NASD Dispute Resolution	= \$ 3,006.25

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

ARBITRATION PANEL

George Mah	-	Public Arbitrator, Presiding Chair
E. Laurence Guy	-	Public Arbitrator
Zadoc W. Brown, Jr.	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this which is my award.

Concurring Arbitrators' Signatures

George Mah
George Mah
Chair, Public Arbitrator

FEB 14, 2006
Signature Date

E. Laurence Gay
Public Arbitrator

Signature Date

Zadoc W. Brown, Jr.
Non-Public Arbitrator

Signature Date

Hawai'i Notary Block

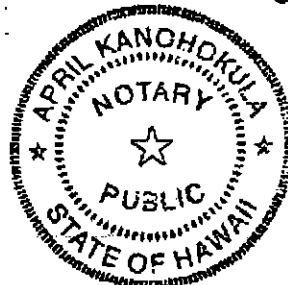
State of Hawaii ss:

City and County of Honolulu

On this 14 day of February 2020, before me personally appeared George Mah to me known and known before me to be the individual described in and who executed the foregoing instrument and he she duly acknowledged that he she executed the same.

the same.

April Kanohokub
Notary Public, State of Hawaii
My commission expires: 9/11/2009



ARBITRATION PANEL

George Mah	-	Public Arbitrator, Presiding Chair
E. Laurence Gay	-	Public Arbitrator
Zadoc W. Brown, Jr.	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this is which is my award.

Concurring Arbitrators' Signatures

George Mah
Chair, Public Arbitrator

Signature Date

E. Laurence Gay
E. Laurence Gay
Public Arbitrator

Feb. 10, 2006
Signature Date

Zadoc W. Brown, Jr.
Non-Public Arbitrator

Signature Date

Hawaii Notary Block

State of Hawaii ss:

City and County of Honolulu

On this 10th day of February 2006, before me personally appeared E. Laurence Gay to me known and known before me to be the individual described in and who executed the foregoing instrument and he/she duly acknowledged that he/she executed the same.

Ronald Z. Jacob
Notary Public, State of Hawaii
My commission expires: November 17, 2006



ARBITRATION PANEL

<i>George Mah</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>E. Laurence Gay</i>	-	<i>Public Arbitrator</i>
<i>Zadoc W. Brown, Jr.</i>	-	<i>Non-Public Arbitrator</i>

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this is which is my award.

Concurring Arbitrators' Signatures

George Mah
Chair, Public Arbitrator

Signature Date

E. Laurence Gay
Public Arbitrator

Signature Date

Zadoc W. Brown, Jr.

Zadoc W. Brown, Jr.
Non-Public Arbitrator

2/13/2006

Signature Date

Hawaii Notary Block

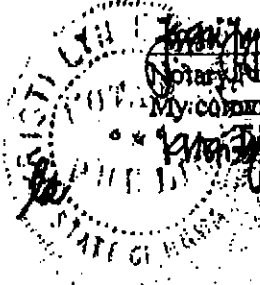
State of HAWAII ss:

City and County of MAUI

On this 13th day of February, 2006, before me personally appeared Zadoc W. Brown, Jr. to me known and known before me to be the individual described in and who executed the foregoing instrument and he/she duly acknowledged that he/she executed the same.

James S. Hester

Notary Public, State of Hawaii
My commission expires: May 1, 2007
James S. Hester



February 14, 2004
Date of Service (For NASD Dispute Resolution use only)