

**AWARD**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between

Name of Claimant

Raymond James and Associates, Inc.  
and

02-06405  
Chicago, Illinois

Name of Respondent

Gerard Phillips

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Nature of the Dispute: Member vs. Associated Person.

**REPRESENTATION OF PARTIES**

Raymond James & Associates, Inc., ("Claimant") was represented by Rick A. Buchwalter, Esq. located in Chicago, Illinois.

Gerard Phillips, ("Phillips") or ("Respondent") located in Lake Bluff, Illinois was pro se.

**CASE INFORMATION**

The Statement of Claim was filed on or about November 4, 2002. The Submission Agreement of Claimant Raymond James and Associates was signed on February 3, 2003.

Respondent Phillip filed a Statement of Answer on August 13, 2003. Respondent did not file a Uniform Submission Agreement.

Claimant filed a Motion for Default Judgment on February 7, 2003.  
Respondent did not file a response to the Motion for Default Judgment.

Claimant filed a Motion to Bar Defenses on or about January 7, 2003.  
Respondent did not file a response to the Motion to Bar Defenses.

**CASE SUMMARY**

Claimant alleged that the Respondent failed to pay the federal withholding taxes and the balance due on an unforgivable loan pursuant to his contract with Claimant. All causes of action in this case arise

out of Respondent's alleged breach of contact with his former employer, Claimant, Raymond James & Associates.

In his Statement of Answer Respondent alleges that Claimant misrepresented the terms and conditions of his employment at Raymond James and Associates.

### **RELIEF REQUESTED**

Claimant requested an award in the amount of \$55,490.30 in compensatory damages. Respondent requested that this case be dismissed in its entirety.

### **OTHER ISSUES CONSIDERED & DECIDED**

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original remains on file with the NASD Dispute Resolution (the "NASD").

At the Commencement of the hearing on the merits, the Panel denied Claimant's Motion to exclude Evidence and Claimant's Motion for Default Judgment.

### **AWARD**

After considering the pleadings, the testimony, and the evidence presented at the hearing undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Gerard Phillips is liable for and shall pay to Raymond James & Associates, Inc. the sum of \$44,572.22 in compensatory damages including interest at a rate of ten percent (10%) of fifty percent (50%) of the compensatory damages or \$2,473.86, which shall begin to accrue on August 29, 2002 and shall cease to accrue on October 9, 2003;
2. Respondent Gerard Phillips is liable for and shall pay to Raymond James and Associates costs in the amount of \$1,748.10;
3. Respondent Gerard Phillips is liable for and shall pay to Raymond James and Associates attorneys' fees in the amount of \$1,590.00. The authority for the attorneys' fees is based upon the terms of the forgivable loan agreement;
4. To the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice.

5. Other than the Forum Fees noted below, the parties should each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees.

### **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 = \$1000.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firm was Raymond James & Associates.

Member surcharge	\$	1,100.00
Pre-hearing process fee	\$	750.00
Hearing process fee	\$	<u>1,700.00</u>
Total Member Fees	\$	3,550.00

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

The Arbitration 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. Fees associated with these proceedings are:

Two [2] Pre-hearing sessions with Panel x \$750.00		= \$1,500.00
Pre-hearing conferences:		
May 29, 2003	1 session	
June 14, 2003	1 session	
Four [4] Hearing sessions x \$750.00		= \$ 3,000.00
Hearing Dates		
September 9, 2003	2 sessions	
October 22, 2003	1 session	
October 31, 2003	1 session	
Total Forum Fees		= \$4,500.00

The Arbitration Panel has assessed \$2,250.00 of the forum fees to Claimant Raymond James & Associates Inc.

The Arbitration Panel has assessed \$2,250.00 of the forum fees to Respondent Gerard Phillips.

**Fee Summary**

Claimant Raymond James & Associates, Inc. shall be and hereby is liable for:

Initial Filing Fee	= \$	1,000.00
Forum Fees	= \$	2,250.00
Member Fees	= \$	<u>3,550.00</u>
Total Fees	= \$	6,800.00
<u>Less payments</u>	= \$	<u>5,300.00</u>
Balance Due NASD Dispute Resolution	= \$	1,500.00

Respondent, Gerald Phillips shall be and hereby is liable for:

Forum Fees	= \$	2,250.00
<u>Less payments</u>	= \$	<u>00</u>
Balance Due NASD Dispute Resolution	= \$	2,250.00

**All balances are due to NASD Dispute Resolution**

**ARBITRATION PANEL**

A. Brad Busscher, Esq., - Non-Public Arbitrator, Presiding Chair

Charles A. Ferris - Non-Public Arbitrator

Suanne F. Goldman - Non-Public Arbitrator

Concurring Arbitrators:

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A. Brad Busscher, Esq.,  
Non-Public Arbitrator, Presiding Chair

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Signature Date

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Charles A. Ferris  
Non-Public Arbitrator

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Signature Date

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Suanne F. Goldman  
Non-Public Arbitrator Date of Service

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Signature Date

NASD Dispute Resolution, Inc.

Arbitration No. 02-06405

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Concurring Arbitrators:



A. Brad Busscher, Esq.,  
Non-Public Arbitrator, Presiding Chair

11/26/03  
Signature Date

Charles A. Ferris  
Non-Public Arbitrator

Signature Date

Suanne F. Goldman  
Non-Public Arbitrator Date of Service

Signature Date

NASD Dispute Resolution, Inc.  
 Arbitration No. 02-06405  
 Award Page 4 of 5

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 Charles A. Ferris - Non-Public Arbitrator  
 Suanne F. Goldman - Non-Public Arbitrator

Concurring Arbitrators:

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 Non-Public Arbitrator, Presiding Chair

  
 Charles A. Ferris  
 Non-Public Arbitrator

Signature Date

11/26/03  
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Suanne F. Goldman  
 Non-Public Arbitrator Date of Service

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Charles A. Ferris - Non-Public Arbitrator

Suanne F. Goldman - Non-Public Arbitrator

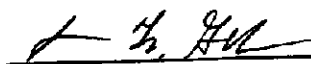
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A. Brad Busscher, Esq.,  
Non-Public Arbitrator, Presiding Chair

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NASD Dispute Resolution, Inc.

Arbitration No. 02-06405

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December 2, 2003  
(For NASD Dispute Resolution office use only)