

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimants

Raymond R. Housh and Nancy W. Housh

and

02-06507
Omaha, Nebraska

Name of Respondents

Raymond James Financial Services, Inc.
Winfield G. Mayne

Nature of the Dispute: Customers vs. Member and Associated Person

REPRESENTATION OF PARTIES

Raymond R. Housh and Nancy W. Housh ("**Claimant**") was represented by Gail E. Boliver, Esq., Boliver Law Firm, Marshalltown, Iowa.

Raymond James Financial Services, Inc. and Winfield G. Wayne ("**Respondents**") were represented by Wayne S. Rasmussen, Esq., Rasmussen & Mitchell, Omaha, Nebraska.

CASE INFORMATION

The Statement of Claim was filed on or about October 25, 2002. The Submission Agreement of Claimants Raymond R. Housh and Nancy W. Housh was signed on or about October 18, 2002.

The Statement of Answer was filed by Respondent Raymond James Financial Services, Inc. and Winfield G. Mayne on or about January 21, 2003. The Submission Agreement of Respondent Raymond James Financial Services, Inc. was signed on or about January 21, 2003. The Submission Agreement of Respondent Winfield G. Mayne was signed on or about January 21, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; negligence; violations of Iowa Securities Acts; Violations of NASD Rules of Supervision and Suitability; misrepresentation; negligent supervision and breach of contract. The causes of action relate to the order execution of various securities investments.

Claimants specifically stated the following:

Mr. Mayne and Raymond James breached their duties to Mr. and Mrs. Housh to properly provide for a retirement portfolio with a proper asset allocation. The portfolio, as constructed by Mr. Mayne and approved by Raymond James, was deficient in several areas. Respondents breached their responsibilities to Mr. and Mrs. Housh by:

1. Failing to monitor the decline of the portfolio;
2. Failing to properly diversify the portfolio amongst different industry groups;
3. Failing to advise of the significant risks associated with a concentrated industry position;
4. Failing to communicate with Mr. and Mrs. Housh in a declining Market to plan defensive strategies and consider alternative strategies (including liquidation of some accounts, etc.);
5. Failing to follow basic portfolio management techniques for Mr. and Mrs. Houshs' investment objectives and conditions as known;
6. Failing to properly supervise claimants' accounts as required by the NASD and NYSE Rules; and,
7. Failing to treat claimants' accounts with the degree of honesty and commercial integrity as required by NASD given Mr. and Mrs. Houshs' investment objectives.

Unless specifically admitted in their Answer, Respondents Raymond James Financial Services, Inc. and Winfield G. Mayne denied the allegations made in the Statement of Claim and asserted the following defenses: The Claimants claim for breach of fiduciary duty fails to state a cause of action as such claim does not lie where Claimants had nondiscretionary accounts; The Claimants claim for negligence fails to state a cause action where the predicate for such action lies in contract; The Claimants assumed risks of investing in the securities and thus have no basis for any claim against the Respondents; The Claimants approved, authorized, ratified and/or acquiesced in the alleged acts, omissions, and misrepresentations, which form the basis of the subject complaint; The Claimants are estopped from recovering in this action because they were aware of the transactions in their accounts, approved the type of transactions that were performed and ratified the specific transactions which occurred; The claimants are barred from recovery under the doctrine of waiver because they received timely reports of individual transactions and monthly account statements and waived any cause of action against the Respondents, by accepting these confirms and monthly statements without objection; The Claimants causes of action are based on alleged misrepresentations by the Respondents, but the Claimants are barred from recovery because they did not exercise reasonable care after discovery of the alleged wrongful conduct of the Respondents. Any losses sustained by the Claimants were the result in whole or in part of their contributory or comparative negligence; The Claimants cannot recover against the Respondents

because the Respondents acted in good faith relying upon the Claimants' representations; The Claimants cannot recover from the Respondents because the handling of their accounts was in accordance and compliance with applicable brokerage industry standards, guidelines and regulatory requirements; Any injury, loss or damage to the Claimants was the result of superseding or intervening cause beyond the control of the Respondents; Any injury, loss or damage to the Claimants was the result of their own conduct therefore may not be awarded against the Respondents; The Claimants failed to mitigate the consequences of any alleged misrepresentation, negligence or wrongdoing by the Respondents, which could have been mitigated; The Claimants are not entitled to any recovery of punitive damages. They have proved no evidentiary basis for the recovery of punitive damages from Respondents as required under law; To the extent the Claimants seek to recover their attorney's fees, such recovery is barred by applicable law; and The Respondents hereby give further notice that they may seek fees and costs in arbitration or in a court of competent jurisdiction following the conclusion of the hearing in this matter.

RELIEF REQUESTED

Claimants requested \$329,018.00 in compensatory damages, plus costs, punitive damages and attorney's fees and such other remedies as the arbitration panel deems fair and equitable under these circumstances.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

Respondents submitted a Brief in Opposition to Claimants' Request for Attorney's Fees, Interest, and Punitive Damages on or about February 11, 2004.

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(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

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

1. Respondents Raymond James Financial Services, Inc. and Winfield G. Mayne, are jointly and severally liable for and shall pay to Claimants Raymond R. Housh and Nancy W. Housh's Joint Account, the sum of \$35,803.05 as compensatory damages.

2. Respondents Raymond James Financial Services, Inc. and Winfield G. Mayne, are jointly and severally liable for and shall pay to Claimant Raymond R. Housh's IRA Account, the sum of \$19,152.27 as compensatory damages.
3. Respondents Raymond James Financial Services, Inc. and Winfield G. Mayne, are jointly and severally liable for and shall pay to Claimant Nancy W. Housh's IRA Account, the sum of \$16,322.04 as compensatory damages.
4. That 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 shall 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 = \$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, the member firm is Raymond James Financial Services, Inc.

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

Adjournments requested during these proceedings:

January 5-7, 2003 Hearing Dates, adjournment by parties
Raymond James Financial Services, Inc. and Winfield G. Mayne

(The Panel has assessed the postponement fee \$562.50 to Claimant and \$562.50 to Respondents, jointly and severally) = \$1,125.00

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:

1	Pre-hearing sessions with Panel	x	1,125.00	\$	1,125.00
	May 9, 2003	1	session		
5	Hearing sessions	x	1,125.00	\$	5,625.00
	January 5, 2004	1	session		
	February 3, 2004	2	sessions		
	February 4, 2004	2	sessions		
	Total Forum Fees			\$	<u>6,750.00</u>

The Arbitration Panel has assessed \$3,375.00 of the forum fees to Raymond R. Housh and Nancy W. Housh.

The Arbitration Panel has assessed \$3,375.00 of the forum fees jointly and severally to Raymond James Financial Services, Inc. and Winfield G. Mayne.

Fee Summary

Claimants, Raymond R. Housh and Nancy W. Housh shall be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$	300.00
Adjournment Fee	= \$	562.50
<u>Forum Fees</u>	= \$	<u>3,375.00</u>
Total Fees	= \$	4,237.50
<u>Less payments</u>	= \$	<u>1,425.00</u>
Balance Due NASD Dispute Resolution	= \$	2,812.50

Respondent, Raymond James Financial Services, Inc., shall be and hereby is 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

Respondents, Raymond James Financial Services, Inc. and Winfield G. Mayne shall be and hereby are jointly and severally liable for:

Adjournment Fee	= \$	562.50
<u>Forum Fees</u>	= \$	<u>3,375.00</u>
Total Fees	= \$	3,937.50
<u>Less payments</u>	= \$	<u>-1,125.00</u>
Balance Due NASD Dispute Resolution	= \$	2,812.50

All balances are due to NASD Dispute Resolution

ARBITRATION PANEL

W. Russell Bowie, Esq. - Public Arbitrator, Presiding Chair
Richard M. Duxbury, Esq. - Public Arbitrator
Michael R. Wendel - Non-Public Arbitrator

Concurring Arbitrators:

/s/ W. Russell Bowie, Esq.
W. Russell Bowie, Esq.
Public Arbitrator, Presiding Chair

2/27/04
Signature Date

/s/ Richard M. Duxbury, Esq.
Richard M. Duxbury, Esq.
Public Arbitrator

2/27/04
Signature Date

/s/ Michael R. Wendel
Michael R. Wendel
Non-Public Arbitrator

2/27/04
Signature Date

Respondents, Raymond James Financial Services, Inc. and Winfield G. Mayne shall be and hereby are jointly and severally liable for:

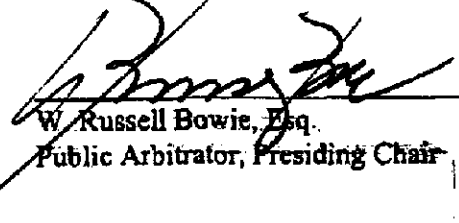
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Public Arbitrator

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Non-Public Arbitrator

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NASD Dispute Resolution
Arbitration No. 02-06507
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Richard M. Duxbury, Esq.
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Signature Date

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Non-Public Arbitrator

2-27-2004
Signature Date