

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

---

In the Matter of the Arbitration Between:

Name of the Claimants

Alan Butz and Karen Richards Butz; and  
Alan Consulting Services, Inc., d/b/a  
Advanced Communications Solutions

Case Number: 02-07764

Name of the Respondents

Raymond, James & Associates, Inc. and  
Kenneth M. Lampos

Hearing Site: Dallas, Texas

---

**NATURE OF THE DISPUTE**

Public Customers v. Member Firm and Associated Person

**REPRESENTATION OF PARTIES**

Claimants Alan Butz and Karen Richards Butz, and Alan Consulting Services, Inc., d/b/a Advanced Communications Solutions, hereinafter collectively referred to as "Claimants": Alan L. Busch, Esq. of the firm of Gerard Singer & Levick, P.C. located in Addison, Texas.

Respondents Raymond, James & Associates, Inc. ("Raymond James") and Kenneth M. Lampos ("Lampos"), hereinafter collectively referred to as "Respondents": Raymond W. Henney, Esq. of the firm of Honigman Miller Schwartz and Cohen LLP, located in Detroit, Michigan.

**CASE INFORMATION**

Statement of Claim filed: December 24, 2002.

Claimants signed the Uniform Submission Agreement: January 13, 2003.

Respondents' Motion for More Definite Statement and General Denial filed: June 3, 2003.

Parties Agreement to File Amended Claim in lieu of Response to Respondents' Motion for More Definite Statement filed: June 24, 2003.

First Amended Statement of Claim filed: July 24, 2003.

Statement of Answer to First Amended Statement of Claim filed by Respondent on: September 18, 2003.

Respondent Raymond James signed the Uniform Submission Agreement: May 8, 2003.

Respondent Lamos signed the Uniform Submission Agreement: July 20, 2004.

Claimants' Memorandum Concerning Legal Standards filed: October 1, 2004.

Respondents' Memorandum Concerning the Applicable Legal Standards, along with the Bound Index of Authorities filed: September 28, 2004.

### **CASE SUMMARY**

Claimants asserted the following causes of action: unsuitability; churning; negligence/negligent supervision; and breach of fiduciary duty. The causes of action resulted from Respondents allegedly recommending and investing Claimants' accounts in small cap, speculative technology stocks and massive option trading, creating excessive trading and heavy margin use which resulted in significant losses in their account.

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

1. To the extent Lamos made any recommendations, those recommendations were reasonable in light of Claimants' stated investment objectives;
2. The Claimants failed to state a cause of action or claim upon which relief can be granted because the elements of the claims do not exist; and,
3. The claims are barred by the doctrines of estoppel, ratification and waiver.

### **RELIEF REQUESTED**

Claimants requested:

Compensatory Damages	\$ 850,000.00 increased to \$ 900,000.00 in the Amended Claim
Punitive Damages	\$ 100,000.00
Interest	Pre- and post-judgment
Attorneys' Fees	Unspecified Amount
Other Costs	Unspecified Amount
Other Monetary/Non-Monetary Relief if any:	Expert Fees

Respondents requested that the Panel dismiss Claimants' claims, award against Claimant the forum costs associated with this proceeding, expunge Claimants' complaint from Respondent Lamos' CRD, and grant to Respondents such other relief as it deems appropriate.

### **OTHER ISSUES CONSIDERED AND DECIDED**

On June 24, 2003, the parties agreed to the filing of an Amended Statement of Claim instead of a

response to the Motion for More Definite Statement. Pursuant to the filing of the Amended Claim, no decision was made on 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 hearing memorandum filed, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Raymond, James & Associates, Inc. and Kenneth M. Lampos are jointly and severally liable for and shall pay to the Claimants, Alan Butz and Karen Richards Butz, and Alan Consulting Services, Inc., d/b/a Advanced Communications Solutions, the sum of \$250,000.00 (Two Hundred and Fifty Thousand Dollars) in compensatory damages;
2. In addition, Respondents Raymond, James & Associates, Inc. and Kenneth M. Lampos are jointly and severally liable for and shall pay to the Claimants, Alan Butz and Karen Richards Butz, and Alan Consulting Services, Inc., d/b/a Advanced Communications Solutions, the sum of \$40,000.00 (Forty Thousand Dollars) as attorneys' fees. In deciding to award attorneys' fees, the Panel considered the arguments and pleadings filed by the parties and determined that authority existed for an award of attorneys' fees to the Claimants;
3. All remaining costs or arbitration, including any remaining attorneys' fees, shall be borne by the party incurring the cost; and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied.

### **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	= \$ 375.00
--------------------------	-------------

#### **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, Raymond, James & Associates, Inc. is a party and the following member fees are assessed:

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed: None.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$1,200.00	= \$ 1,200.00
Pre-hearing conference: December 3, 2003 1 session	

Twelve (12) Hearing sessions @ \$1,200.00	= \$14,400.00
Hearing Date: September 13, 2004 2 sessions	
September 14, 2004 2 sessions	
September 15, 2004 3 sessions	
September 16, 2004 2 sessions	
September 17, 2004 2 sessions	
October 5, 2004 1 session	

---

Total Forum Fees	= \$15,600.00
------------------	---------------

The Panel has assessed \$15,600.00 of the forum fees to Respondent Raymond, James & Associates, Inc.

**SEE SUMMARY**

Claimants Alan Butz and Karen Richards Butz and Alan Consulting Services, Inc., d/b/a Advanced Communications Solutions are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Less payments	= \$ 1,575.00
Balance Refunded by NASD Dispute Resolution	= \$ 1,200.00

Respondent Raymond, James & Associates, Inc. is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$15,600.00
Total Fees	= \$22,600.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$15,600.00

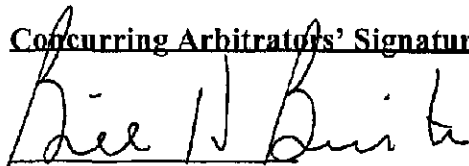
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule

10330(g) of the Code.

**ARBITRATION PANEL**

Bill H. Brister - Public Arbitrator, Presiding Chairperson  
Harry J Saginaw, JD - Public Arbitrator  
Albert Earl Ladd - Non-Public Arbitrator

**Concurring Arbitrators' Signatures**



Bill H. Brister  
Public Arbitrator, Presiding Chairperson

October 12, 2004

Signature Date

\_\_\_\_\_  
Harry J Saginaw, JD  
Public Arbitrator

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

\_\_\_\_\_  
Albert Earl Ladd  
Non-Public Arbitrator

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

10/13/04   
Date of Service (For NASD Dispute Resolution office use only)

10/07/2004 12:51 FAX

NASD

NASD Dispute Resolution  
Arbitration No. 02-07764  
Award Page 5

10330(g) of the Code.

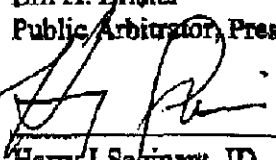
**ARBITRATION PANEL**

Bill H. Brister - Public Arbitrator, Presiding Chairperson  
Harry J Saginaw, JD - Public Arbitrator  
Albert Earl Ladd - Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Bill H. Brister  
Public Arbitrator, Presiding Chairperson

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

  
\_\_\_\_\_  
Harry J Saginaw, JD  
Public Arbitrator

\_\_\_\_\_  
10-11-04  
Signature Date

\_\_\_\_\_  
Albert Earl Ladd  
Non-Public Arbitrator

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

10/13/04   
\_\_\_\_\_  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 02-07764  
Award Page 5

10330(g) of the Code.

**ARBITRATION PANEL**

Bill H. Brister - Public Arbitrator, Presiding Chairperson  
Harry J Saginaw, JD - Public Arbitrator  
Albert Earl Ladd - Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

\_\_\_\_\_  
Bill H. Brister  
Public Arbitrator, Presiding Chairperson

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

\_\_\_\_\_  
Harry J Saginaw, JD  
Public Arbitrator

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

Albert Earl Ladd  
Albert Earl Ladd  
Non-Public Arbitrator

Oct. 12, 2004  
Signature Date

Plan 10/13/04  
Date of Service (For NASD Dispute Resolution office use only)