

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Lavonne and Benjamin Carter

and

Case Number: 03-01020
Hearing Site: Detroit, Michigan

Names of Respondents

Raymond James & Associates, Inc.
McDonald Investments and
James M. Buehler

NATURE OF CASE

Customers v. Member Firms and Associated Person

REPRESENTATION OF PARTIES

Lavonne and Benjamin Carter ("Claimants") were represented by Frank A. Fleischmann, Esq., Secrest, Wardle, Lynch, Hampton, Truex, and Morley, P.C., Lansing, Michigan.

Raymond James & Associates, Inc. ("RJA") was represented by David J. Rice, Esq., Raymond James & Associates, Inc., St. Petersburg, Florida.

McDonald Investments ("McDonald") and James M. Buehler ("Buehler") were represented by Dennis J. Levasseur, Esq., Bodman, Longley & Dahling LLP, Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about February 5, 2003. The Submission Agreement of Claimants Lavonne and Benjamin Carter was signed on or about January 9, 2003.

Motion to Dismiss, Statement of Answer and Affirmative Defenses was filed by Respondent RJA on or about May 14, 2003. The Submission Agreement of Respondent Raymond James & Associates, Inc. was signed on or about February 23, 2003.

Motion to Dismiss Statement of Claim, Statement of Answer and Affirmative Defenses was filed jointly by Respondent McDonald and Buehler on or about April 2, 2003. The Submission Agreement of Respondent McDonald Investments was signed on or about March 27, 2003, by Henry Kerr. The Submission Agreement of Respondent James M. Buehler was signed on or about April 15, 2003.

Claimants filed a Response to Respondent RJA's Motion to Dismiss on or about May 30, 2003.

Respondents McDonald and Buehler requested an Award granting their Motion to Dismiss on or about September 23, 2003. Respondent RJA requested an award granting its Motion to Dismiss on or about October 8, 2003.

CASE SUMMARY

Claimants asserted that as employers of Respondent James Buehler, Respondents are responsible for Buehler's actions; that Buehler disregarded Claimants' instructions and placed Claimants' in high risk, low yield investments and other unacceptable investment strategies; that Buehler deceived and/or misled Claimants regarding their investments, failed to disclose the risks of purchasing a new set of annuities, and placed Claimants in unsuitable investments including *First Trust Communications* and *American Legacy*.

Unless specifically admitted in its Answer, Respondent RJA denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants understood the nature of their investments purchased at RJA, Claimants had full control over the investment decisions in their accounts, any losses incurred were the result of market fluctuations and risks Claimants knowingly assumed, and Claimants failed to mitigate their damages.

Unless specifically admitted in their Answer, Respondents McDonald and Buehler denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants have failed to state a claim upon which relief can be granted, Claimants' claims are barred by the applicable statute of limitations, and Claimants fully and understood an willingly assumed the risks associated with the subject investments.

RELIEF REQUESTED

Claimant requested an award in the amount of \$403,601.00 in actual damages, plus \$247,000.00 in punitive damages, and costs of approximately \$1,575.00.

Respondent RJA requested that the claims asserted against it be dismissed and that it be awarded costs and such other and further relief as the Panel deemed just and appropriate.

Respondents McDonald and Buehler requested that the claims asserted against them be dismiss, that they be awarded their costs and attorneys' fees, and that Respondent Buehler's CRD record be expunged of all references to this matter.

OTHER ISSUES CONSIDERED & DECIDED

The Panel heard argument on Respondents' Motions to Dismiss on or about September 3, 2003. At the conclusion of the hearing, the Panel entered an Order giving Claimants until October 1, 2003 to submit a supplemental submission and set another hearing on October 15, 2003. Having not received any pleading from Claimant after the passing of the schedule set by the Panel, Respondents filed a request for an award. At the hearing on October 15, 2003, the Claimants' counsel confirmed to the Panel that no additional correspondence or pleading had been filed. The Panel heard additional arguments and advised the parties that they would receive a written decision.

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 NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Claimants' claims, each and all, are denied and dismissed with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent James's M. Buehler registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Buehler must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) That any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

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
Counterclaim filing fee (expungement request)	= \$ 250.00

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(s) at the time of the events giving rise to the dispute. In this matter, the member firms are Raymond James & Associates, Inc. and McDonald Investments.

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

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 arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) Pre-hearing sessions with Panel x \$1,200.00	= \$ 3,600.00
Pre-hearing conferences: August 25, 2003	1 sessions
September 3, 2003	1 session
October 15, 2003	1 session
Total Forum Fees	= \$ 3,600.00

The Arbitration Panel has assessed \$1,800.00 of the forum fees jointly and severally to Lavonne and Benjamin Carter. The Arbitration Panel has assessed \$1,800.00 of the forum fees jointly and severally to Raymond James & Associates, Inc. McDonald Investments, and James M. Buehler.

Fee Summary

Claimant, Lavonne and Benjamin Carter, are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 2,175.00
Less payments	= \$ 2,450.00
Refund Due From NASD Dispute Resolution	= \$ 275.00

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

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 3,000.00
Balance Due NASD Dispute Resolution	= \$ 4,000.00

Respondent, McDonald & Co., is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 3,000.00
Balance Due NASD Dispute Resolution	= \$ 4,000.00

Respondent, James M. Buehler is solely liable for:

Counterclaim Filing Fee	= \$ 250.00
Total Fees	= \$ 250.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 250.00

Respondents, Raymond James & Associates, Inc., McDonald Investments, and James M. Buehler, are jointly and severally liable for:

Forum Fees	= \$ 1,800.00
Total Fees	= \$ 1,800.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00

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

ARBITRATION PANEL

Ina Otto, Esq. - Public Arbitrator, Presiding Chair
Kenneth J. Safran, Esq. - Public Arbitrator
Bernard R. Cohen, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Ina Otto, Esq.
Ina Otto, Esq.
Public Arbitrator, Presiding Chair

10/16/03
Signature Date

/s/ Kenneth J. Safran
Kenneth J. Safran, Esq.
Public Arbitrator

10/17/03
Signature Date

/s/ Bernard R. Cohen, Esq.
Bernard R. Cohen, Esq.
Non-Public Arbitrator

10/17/03
Signature Date

10/17/03
Date of Service (For NASD office use only)

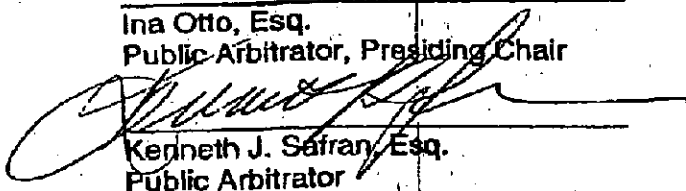
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FAX TO NASD

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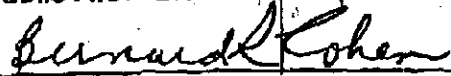
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