

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

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In the Matter of the Arbitration Between

Names of Claimants

James L. Buchanan and Edith C. Buchanan

and

Case Number: 03-01925  
Hearing Site: Houston, Texas

Names of Respondents

Raymond James & Associates, Inc.,  
Raymond James Financial Services, Inc. and  
Carl Wilson Stuart

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**NATURE OF DISPUTE**

Customers v. Member Firms and Associated Person

**REPRESENTATION OF PARTIES**

James L. Buchanan and Edith C. Buchanan ("**Claimants**") were represented by Robert Summers, Esq., of Hohmann, Taube & Summers, LLP, in Houston, Texas.

Raymond James & Associates, Inc., Raymond James Financial Services, Inc. and Carl Wilson Stuart ("**Respondents**") were represented by Janiece Longoria, Esq., of Ogden, Gibson, White, Brooks and Longoria, in Houston, Texas.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 18, 2003.

The Submission Agreement of Claimants, James L. Buchanan and Edith C. Buchanan, was signed on or about March 13, 2003.

The Statement of Answer was filed jointly by Respondents, Raymond James & Associates, Inc., Raymond James Financial Services, Inc. and Carl Wilson Stuart, on or about June 5, 2003.

A Motion to Dismiss was filed by Respondent, Raymond James & Associates, Inc., on or about June 14, 2004.

The Submission Agreements of Respondents, Raymond James & Associates, Inc. and Raymond James Financial Services, Inc., were signed on or about March 27, 2003.

The Submission Agreement of Respondent, Carl Wilson Stuart, was signed on or about May 23, 2003.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of contract, negligence, breach of fiduciary duty, and misrepresentations. The causes of action related to the purchase and sales of various unspecified securities. Claimants asserted that they sought advice from Stuart regarding paying off a margin account balance. Claimants alleged that they did not give Respondents the authority to buy or sell any securities in Claimants' account. On or about November 8, 2001, Claimants alleged that they received notice that a small amount of securities had been sold. Shortly thereafter, Claimants received confirmation of sales of a large number of bonds, which Claimants asserted were necessary to pay the margin debt. Claimants alleged that the net result was to liquidate almost everything in Claimants' account, leaving Claimants in a situation where they had a large cash balance drawing very little interest.

Unless specifically admitted in their Answer, Respondents, Raymond James Financial Services, Inc., Raymond James & Associates, Inc. and Carl Wilson Stuart, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants' were fully advised and understood the nature of the investments purchased in their account at Raymond James Financial Services, Inc.; Claimants had full control over the investment decisions in their account and Claimants had full, complete, and accurate contemporaneous knowledge of all transactions alleged in Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$371,584.00
Punitive/Exemplary Damages	\$743,168.00
Interest	Unspecified
Attorney's Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be denied in their entirety and that all forum fees be assessed against Claimants.

At hearing, Respondents requested and presented evidence in support of attorney's fees.

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

Claimants dismissed Raymond James & Associates with prejudice on June 22, 2004. The panel did not adjudicate any further claims against this Respondent.

At hearing, both sides presented evidence in support of attorney's fees without objection.

The parties filed post-hearing briefs on or about July 9, 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 originals remain on file with NASD Dispute Resolution ("NASD").

### **AWARD**

After considering the pleadings, the testimony, 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.) Claimants' claims, each and all, are hereby denied and dismissed with prejudice in their entirety;
- 2.) Claimants, James L. Buchanan and Edith C. Buchanan, are jointly and severally liable for and shall pay to Respondents, Raymond James Financial Services, Inc., and Carl Wilson Stuart, the sum of \$35,000.00 in attorneys fees;
- 3.) The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Carl Wilson Stuart's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Member 99-09 and 99-54, Respondent Carl Wilson Stuart must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 4.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 5.) Any relief not specifically enumerated, including punitive damages, 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 = \$500.00

### **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 firms are Raymond James & Associates, Inc., and Raymond James Financial Services, Inc.

Member surcharge = \$2800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$5000.00

### **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:

One (1) Pre-hearing session with a single arbitrator x \$450.00 = \$ 450.00

Pre-hearing conference: March 1, 2004 1 session

One (1) Pre-hearing session with Panel x \$1,200.00 = \$1,200.00

Pre-hearing conference: December 4, 2004 1 session

Four (4) Hearing sessions x \$1,200.00 = \$4,800.00

Hearing Dates: June 23, 2004 2 sessions

June 24, 2004 2 sessions

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Total Forum Fees = \$6,450.00

The Arbitration Panel has assessed \$6,450.00 of the forum fees jointly and severally to James L. Buchanan and Edith C. Buchanan.

### Fee Summary

Claimants, James L. Buchanan and Edith C. Buchanan, are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Forum Fees	= \$ 6,450.00
Total Fees	= \$ 6,950.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 5,150.00

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

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ .00

Respondent, Raymond James Financial Services, Inc., is liable for:

Member Fees	= \$ 8,550.00
Total Fees	= \$ 8,550.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ .00

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

**ARBITRATION PANEL**

Thomas A. Martin - Public Arbitrator, Presiding Chair  
Richard Nelson – Public Arbitrator  
James P. Kinkade - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Thomas A. Martin  
Thomas A. Martin  
Public Arbitrator, Presiding Chair

July 23, 2004  
Signature Date

/s/ Richard Nelson  
Richard Nelson  
Public Arbitrator

July 25, 2004  
Signature Date

/s/ James P. Kinkade  
James P. Kinkade  
Non-Public Arbitrator

July 27, 2004  
Signature Date

July 27, 2004  
Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 03-01925  
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**ARBITRATION PANEL**

Thomas A. Martin - Public Arbitrator, Presiding Chair  
Richard Nelson - Public Arbitrator  
James P. Kinkade - Non-Public Arbitrator

**Concurring Arbitrators:**

/s/ Thomas A. Martin  
Thomas A. Martin  
Public Arbitrator, Presiding Chair

July 23, 2004  
Signature Date

/s/ Richard Nelson  
Richard Nelson  
Public Arbitrator

July 26, 2004  
Signature Date

/s/ James P. Kinkade  
James P. Kinkade  
Non-Public Arbitrator

July 27, 2004  
Signature Date

7/27/04  
Date of Service (For NASD office use only)

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Arbitration No. 03-01828  
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**ARBITRATION PANEL**

Thomas A. Martin - Public Arbitrator, Presiding Chair  
Richard Nelson - Public Arbitrator  
James P. Kirkade - Non-Public Arbitrator

**Concurring Arbitrators:**

Thomas A. Martin  
Thomas A. Martin  
Public Arbitrator, Presiding Chair

02-23-04  
Signature Date

Richard Nelson  
Richard Nelson  
Public Arbitrator

Signature Date

James P. Kirkade  
James P. Kirkade  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)



NASD Dispute Resolution  
Arbitration No. 03-01928  
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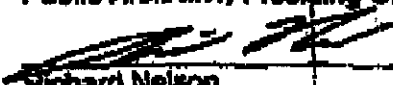
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Richard Nelson - Public Arbitrator  
James P. Kinkade - Non-Public Arbitrator

**Concurring Arbitrators:**

Thomas A. Martin  
Public Arbitrator, Presiding Chair

Signature Date

  
Richard Nelson  
Public Arbitrator

July 25, 2004  
Signature Date

James P. Kinkade  
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

NASD Dispute Resolution  
Arbitration No. 03-01825  
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**ARBITRATION PANEL**

Thomas A. Martin - Public Arbitrator, Presiding Chair  
Richard Nelson - Public Arbitrator  
James P. Kinkade - Non-Public Arbitrator

**Concurring Arbitrators:**

Thomas A. Martin  
Public Arbitrator, Presiding Chair

Signature Date

Richard Nelson  
Public Arbitrator

Signature Date

  
James P. Kinkade  
Non-Public Arbitrator

7-27-04  
Signature Date

Date of Service (For NASD office use only)