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

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In the Matter of the Arbitration Between:

Names of the Claimants  
Danny and Mary Giardina

Case Number: 03-02176

Names of the Respondents  
Thomas Van Geffen  
Raymond James Financial Services, Inc.

Hearing Site: New Orleans, Louisiana

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

**REPRESENTATION OF PARTIES**

For Danny and Mary Giardina, hereinafter collectively referred to as "Claimants": Joseph R. Ward, Jr., Esq., Ward & Condrey, LLC, Covington, Louisiana.

For Thomas Van Geffen ("Geffen") and Raymond James Financial Services, Inc. ("RJF"), hereinafter collectively referred to as "Respondents": Robert C. Stokes, III, Esq., Vice President, Associate Corporate Counsel, RJF, St. Petersburg, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: March 20, 2003.  
Claimants signed the Uniform Submission Agreements: April 21, 2003.  
Statement of Answer filed by Respondents on or about: July 1, 2003.  
Respondent RJF signed the Uniform Submission Agreement: May 21, 2003.  
Respondent Geffen signed the Uniform Submission Agreement: June 11, 2003.

**CASE SUMMARY**

Claimants asserted the causes of action of unsuitability and negligence against Respondents Geffen and RJF. Claimants further asserted the causes of action of fraud against Respondent Geffen, and failure to supervise against Respondent RJF. The causes of action relate to the purchase in Claimants' account of unspecified mutual funds.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various defenses.

**RELIEF REQUESTED**

Claimants initially requested compensatory damages in the amount of \$125,000.00 and punitive damages in the amount of \$250,000.00. At the evidentiary hearing, Claimants reduced the amount of compensatory damages requested to approximately \$89,000.00.

Respondents requested that the Statement of Claim be dismissed, and that they be awarded forum fees, costs and such other and further relief as deemed just by the Panel, including, but not limited to, an express finding of

expungement of this matter from Respondents' Central Registration Depository ("CRD") records.

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

During the evidentiary hearing, Respondents moved to dismiss the claim, which was denied by the Panel.

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 post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondents are jointly and severally liable and shall pay to Claimants compensatory damages in the amount of \$80,000.00.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages and Respondents' request for expungement, are denied.

### **FEES**

Pursuant to the NASD Code of Arbitration Procedure (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
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#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent RJF is a member firm and a party.

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**

No adjournments were requested in this matter.

#### **Injunctive Relief Fees**

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent

injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

Injunctive relief fees were not assessed in this matter.

**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 the Panel @ \$1,125.00/session	= \$1,125.00
Pre-hearing conference: October 20, 2003 1 session	
One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: May 10, 2004 1 session	
Four (4) Hearing sessions @ \$1,125.00/session	= \$4,500.00
Hearing Dates: July 20, 2004 2 sessions	
July 21, 2004 2 sessions	
<hr/> Total Forum Fees	<hr/> = \$6,075.00

The Panel has assessed forum fees of \$3,037.50 to Claimants, jointly and severally.

The Panel has assessed forum fees of \$3,037.50 to Respondents, jointly and severally.

**Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred in this matter.

**Fee Summary**

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$3,037.50
Total Fees	= \$3,337.50
Less Payments	= \$1,425.00
Balance Due NASD Dispute Resolution	= \$1,912.50

Respondent RJF is solely liable for:

Member Fees	= \$5,200.00
Total Fees	= \$5,200.00
Less Payments	= \$5,200.00

Balance Due NASD Dispute Resolution = \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$3,037.50
Total Fees	= \$3,037.50
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$3,037.50

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

**ARBITRATION PANEL**

Leonard J. Sullivan, Esq.  
Donald L. Helton  
Arthur W. Pigott

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Leonard J. Sullivan, Esq.  
Public Arbitrator, Presiding Chairperson

July 27, 2004  
Signature Date

/s/  
Donald L. Helton  
Public Arbitrator

July 27, 2004  
Signature Date

/s/  
Arthur W. Pigott  
Non-Public Arbitrator

July 27, 2004  
Signature Date

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

NASD Dispute Resolution  
Arbitration No. 03-02176  
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Balance Due NASD Dispute Resolution

= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees

= \$3,037.50

Total Fees

= \$3,037.50

Less Payments

= \$ 0.00

Balance Due NASD Dispute Resolution

= \$3,037.50

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Leonard J. Sullivan, Esq.

Donald L. Helton

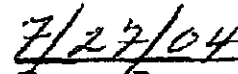
Arthur W. Pigott

- Public Arbitrator, Presiding Chairperson
- Public Arbitrator
- Non-Public Arbitrator

Concurring Arbitrators' Signatures

Leonard J. Sullivan, Esq.

Public Arbitrator, Presiding Chairperson



Signature Date

\_\_\_\_\_  
Donald L. Helton

Public Arbitrator

\_\_\_\_\_  
Signature Date\_\_\_\_\_  
Arthur W. Pigott

Non-Public Arbitrator

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JUL 26 2004 5:58PM

NASD REGULATIONS

NO. 479 P. 5

## NASD Dispute Resolution

Arbitration No. 03-02176

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Balance Due NASD Dispute Resolution = \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees = \$3,037.50

Total Fees = \$3,037.50

Less Payments = \$ 0.00

Balance Due NASD Dispute Resolution = \$3,037.50

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Donald L. Helton

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Public Arbitrator, Presiding Chairperson

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Signature Date

  
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Donald L. Helton  
Public Arbitrator

7-27-04  
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Signature Date

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Arthur W. Pigott  
Non-Public Arbitrator

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NASD Dispute Resolution  
Arbitration No. 03-02176  
Award Page 4

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07-27-04

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