

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

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In the Matter of the Arbitration Between

Claimants

Jesse R. Ragan and Norma Ragan

vs.

03-06429  
Nashville, Tennessee

Respondents

Legg Mason Wood Walker, Inc. and Gary S. Jameson

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**REPRESENTATION OF PARTIES**

Jesse R. Ragan and Norma Ragan ("Claimants") were represented by Alix Coulter Cross, Esq., Harwell Howard Hyne Gabbert & Manner, PC., Nashville, Tennessee.

Legg Mason Wood Walker, Inc. ("Legg Mason") and Gary S. Jameson ("Jameson"), hereinafter collectively referred to as ("Respondents"), were represented by Gretchen L. Klebasko, Esq., Legg Mason Wood Walker, Inc., Baltimore, Maryland.

**CASE INFORMATION**

The Statement of Claim was filed on or about September 5, 2003. The Submission Agreements of Claimants, Jesse R. Ragan and Norma Ragan, were signed on or about September 3, 2003. The Claimants' Motion to Amend was filed on or about July 30, 2004. The Amended Statement of Claim was filed on or about September 2, 2004.

The Statement of Answer was filed by Respondents, Legg Mason Wood Walker, Inc. and Gary S. Jameson, on or about March 18, 2004. The Submission Agreement of Respondent, Legg Mason Wood Walker, Inc., was signed on or about March 17, 2003. The Submission Agreement of Respondent, Gary S. Jameson, was signed on or about February 12, 2004. The Respondents' Reply to the Motion to Amend was filed on or about August 16, 2004.

**CASE SUMMARY**

Claimants asserted the following causes of action: Suitability, misrepresentations, breach of fiduciary duty, and negligence. Claimants alleged that the Respondents recommended investments that were unsuitable and inconsistent with their objectives, which led to losses in their account. The causes of action related to the recommendation and purchase of various securities investments.

Respondents, Legg Mason Wood Walker, Inc. and Gary S. Jameson, denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: The Statement of Claim failed to state a cause of action upon which relief may be granted; Respondents acted in good faith at all times and at no time did they commit, directly or indirectly, any acts that could give rise to a valid claim by the Claimants; Claimants expressly ordered, approved, ratified, authorized, and/or participated in the transactions about which they now complain and upon which they seek recovery and are therefore precluded from recovering herein; Claimants failed to use the requisite due diligence in monitoring, trading, managing and handling their own accounts; Claimants voluntarily assumed the risk of investing in the stock market and therefore are precluded from recovering herein; any loss that Claimants may have suffered was caused by their own conduct or negligence; and Claimants controlled the accounts at all times.

### **RELIEF REQUESTED**

Claimants requested an award of \$400,000.00 in compensatory damages, plus interest, attorneys' fees, costs and such other relief as the arbitrators deem appropriate under the circumstances.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded costs, attorney's fees and such other relief as the arbitrators deemed just and proper.

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

On August 19, 2004, the panel entered an order in regard to Claimant's Motion to Amend which reflected the following:

1. The Panel in this case composed of J. Franklin McCreary, David T. Maddux and myself, conducted a telephone conference today to consider (i) the Motion to Amend and Amended Statement of Claim filed by claimants, and (ii) the letter in response to the Motions filed by respondents, both of which were forwarded to the Panel by your letter of August 16, 2004;
2. After consideration of the Motion and the response, the Panel has granted the claimants' Motion to Amend their statement of claim; and
3. Any Amended Statement of Claim shall be filed on or before September 1, 2004, and any response to said amended claim shall be filed on or before September 16, 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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Legg Mason Wood Walker, Inc. and Gary S. Jameson, are jointly and severally liable for and shall pay to Claimants, Jesse R. Ragan and Norma Ragan, the sum of \$75,000.00 (Seventy-Five Thousand Dollars and No Cents) in compensatory damages;
2. Respondents, Legg Mason Wood Walker, Inc. and Gary S. Jameson, are jointly and severally liable for and shall pay to Claimants, Jesse R. Ragan and Norma Ragan, the sum of \$300.00 (Three Hundred Dollars and No Cents) as reimbursement of the claim-filing fee;
3. 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; and
4. 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 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 Legg Mason Wood Walker, Inc.

Member surcharge = \$1,700.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$2,750.00

Total Fees = \$5,200.00

**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 (One) Pre-hearing session with the Panel	x	1,125.00	\$	1,125.00
May 27, 2004	1 session			
5 (Five) Hearing sessions	x	1,125.00		5,625.00
September 28, 2004	2 sessions			
September 29, 2004	3 sessions			
Total Forum Fees			\$	<u>6,750.00</u>

The Arbitration Panel has assessed \$6,750.00 of the forum fees, jointly and severally, to Legg Mason Wood Walker, Inc. and Gary S. Jameson.

**Fee Summary**

Claimants, Jesse R. Ragan and Norma Ragan, are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$	300.00
Total Fees	= \$	300.00
<u>Less payments</u>	= \$	-1,425.00
Refund due to the Claimants	= \$	1,125.00

Respondent, Legg Mason Wood Walker, Inc., is solely liable for:

<u>Member Fees</u>	= \$	5,200.00
Total Fees	= \$	5,200.00
<u>Less payments</u>	= \$	-0.00
Balance Due NASD Dispute Resolution	= \$	0.00

Respondents, Legg Mason Wood Walker, Inc. and Gary S. Jameson, are jointly and severally liable for:

<u>Forum Fees</u>	= \$	6,750.00
Total Fees	= \$	6,750.00
<u>Less payments</u>	= \$	-0.00

Balance Due NASD Dispute Resolution = \$ 6,750.00

ARBITRATION PANEL

Fred M. Acuff, Jr., Esq. - Public Arbitrator, Presiding Chair  
J. Franklin McCreary, JD - Public Arbitrator  
David T. Maddux - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Fred M. Acuff, Jr., Esq.  
Fred M. Acuff, Jr., Esq.  
Public Arbitrator, Presiding Chair

October 11, 2004  
Signature Date

J. Franklin McCreary, JD  
J. Franklin McCreary, JD  
Public Arbitrator

Signature Date

/s/ David T. Maddux  
David T. Maddux  
Non-Public Arbitrator

October 11, 2004  
Signature Date

October 11, 2004  
Date of Service (For NASD office use only)

NASD Dispute Resolution, Inc.  
Arbitration No. 03-06429  
Award Page 5 of 5

Balance Due NASD Dispute Resolution

= \$ 6,750.00

**ARBITRATION PANEL**

Fred M. Acuff, Jr., Esq. - Public Arbitrator, Presiding Chair  
J. Franklin McCreary, JD - Public Arbitrator  
David T. Maddux - Non-Public Arbitrator

Concurring Arbitrators:

*Fred M. Acuff, Jr.*  
Fred M. Acuff, Jr., Esq.  
Public Arbitrator, Presiding Chair

10-11-04  
Signature Date

J. Franklin McCreary, JD  
J. Franklin McCreary, JD  
Public Arbitrator

Signature Date

David T. Maddux  
David T. Maddux  
Non-Public Arbitrator

Signature Date

NASD Dispute Resolution, Inc.  
Arbitration No. 03-06429  
Award Page 5 of 5

Balance Due NASD Dispute Resolution

= \$ 6,750.00

**ARBITRATION PANEL**

Fred M. Acuff, Jr., Esq. - Public Arbitrator, Presiding Chair  
J. Franklin McCreary, JD - Public Arbitrator  
David T. Maddux - Non-Public Arbitrator

Concurring Arbitrators:

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Fred M. Acuff, Jr., Esq.  
Public Arbitrator, Presiding Chair

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

\_\_\_\_\_  
J. Franklin McCreary, JD  
Public Arbitrator

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

  
\_\_\_\_\_  
David T. Maddux  
Non-Public Arbitrator

10/11/04  
\_\_\_\_\_  
Signature Date

NASD Dispute Resolution, Inc.  
Arbitration No. 03-05429  
Award Page 5 of 5

Balance Due NASD Dispute Resolution

= \$ 6,750.00

**ARBITRATION PANEL**

Fred M. Acuff, Jr., Esq. - Public Arbitrator, Presiding Chair  
J. Franklin McCreey, JD - Public Arbitrator  
David T. Maddux - Non-Public Arbitrator

**Concurring Arbitrators:**

\_\_\_\_\_  
Fred M. Acuff, Jr., Esq.  
Public Arbitrator, Presiding Chair

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

  
\_\_\_\_\_  
J. Franklin McCreey, JD  
Public Arbitrator

Oct 18, 2004  
\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
David T. Maddux  
Non-Public Arbitrator

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