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

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In the Matter of the Arbitration Between:

Name of the Claimant  
David E. Ball, IRA

Case Number: 03-09185

Name of the Respondent  
Raymond James Financial Services, Inc.

Hearing Site: Tampa, Florida

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

For David E. Ball, IRA, hereinafter referred to as "Claimant": Jeffrey P. Coleman, Esq., Coleman Law Firm, Clearwater, Florida.

For Raymond James Financial Services, Inc., hereinafter referred to as "Respondent": George L. Guerra, Esq., Tate, Lazarini & Beall, PLC, Tampa, Florida.

**CASE INFORMATION**

Statement of Claim filed on or about: December 29, 2003.

Claimant signed but did not date the Uniform Submission Agreement.

Amended Statement of Claim filed on or about: July 13, 2004.

Response to Statement of Claim, Motion for a More Definite Statement of Claim and Motion to Strike filed on or about: March 11, 2004.

Motion for Protective Order and Request for Sanctions filed by Respondent on or about: November 12, 2004.

Opposition to Motion for Protective Order and Request for Sanctions filed by Claimant on or about: December 17, 2004.

Motion For Partial Award filed by Claimant on or about: December 3, 2004.

Opposition to Claimant's Motion For Partial Award filed by Respondent on or about: December 16, 2004.

Respondent signed the Uniform Submission Agreement: February 5, 2004.

**CASE SUMMARY**

Claimant alleged the following causes of action: 1) negligent supervision; 2) violation of section 517.301, Florida Statutes; 3) negligence; 4) gross negligence; 5) failure to supervise; 6) breach of fiduciary duty; 7) breach of contract; 8) violation of industry rules; and, 9) respondeat superior. The causes of action relate to investments in shares of common stock, including but not limited to, American Express Co., Cisco Systems, Inc. and Intel Corp.

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

**RELIEF REQUESTED**

Claimant requested: 1) compensatory damages in the amount of \$100,000.00 to \$150,000.00; 2) interest; 3) punitive damages; 4) attorneys' fees; 5) disgorgement of unjust commissions and fees; 6) costs, expenses and disbursements; 7) filing and forum fees; and, 8) such other and further relief the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent requested that the Statement of Claim be dismissed, with prejudice, and an award of costs, fees and attorneys' fees.

**OTHER ISSUES CONSIDERED AND DECIDED**

On or about June 10, 2004, at the initial pre-hearing conference, Respondent withdrew its Motion to Strike. In addition, during this conference, oral argument was heard on Respondent's Motion for a More Definite Statement of Claim. On or about June 17, 2004, the Panel ordered Claimant to amend his Statement of Claim.

On or about February 9, 2005, the Panel granted Respondent's Motion For a Protective Order, however, Respondent's Motion For Sanctions was denied.

During the final hearing for this matter, oral argument was heard on Claimant's Motion for Partial Award. On or about March 24, 2005, the Panel denied the Motion For Partial Award.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims are denied in their entirety, with prejudice.

Any and all claims for relief not specifically addressed herein, including Claimant's request for attorneys' fees, punitive damages and request for relief pursuant to Florida Statutes, Section 517.301 and Respondents request for attorneys' fees, are denied.

**FEES**

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

**Filing Fees**

NASD will retain or collect 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. Accordingly, Respondent is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$2,750.00</u>
Total Member Fees	= \$5,200.00

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings.

**Three-Day Cancellation Fees**

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

There were no three-day cancellation fees assessed during these proceedings.

**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.

There were no injunctive relief fees assessed during these proceedings.

**Forum Fees and Assessments**

The Panel has assessed forum fees for each session conducted. A 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:

Three (3) Pre-hearing sessions with Panel @ \$1,125.00 per session	= \$ 3,375.00
Pre-hearing conferences:	
June 10, 2004	1 session
June 17, 2004	1 session
March 18, 2005	1 session

Six (6) Hearing sessions @ \$1,125.00 per session	= \$ 6,750.00
Hearing Dates:	
March 21, 2005	2 sessions
March 22, 2005	2 sessions
March 23, 2005	2 sessions

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Total Forum Fees	= \$10,125.00
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The Panel has assessed forum fees in the amount of \$5,062.50 to Claimant.  
The Panel has assessed forum fees in the amount of \$5,062.50.00 to Respondent.

**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 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 during these proceedings.

**Fee Summary**

Claimant is solely liable for:

Initial Claim Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 5,062.50
Total Fees	= \$ 5,362.50
<u>Less payments</u>	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 3,937.50

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 5,062.50
Total Fees	= \$10,262.50
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 5,062.50

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

**ARBITRATION PANEL**

Diana A. Weiner, Esq.	-	Public Arbitrator, Presiding Chairperson
William Hugh Nenninger	-	Public Arbitrator
Michael Scott Hill	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

/s/  
Diana A. Weiner, Esq.  
Public Arbitrator, Presiding Chairperson

3/30/2005  
Signature Date

/s/  
William Hugh Nenninger  
Public Arbitrator

3/30/2005  
Signature Date

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/s/

Michael Scott Hill  
Non-Public Arbitrator

3/30/2005

Signature Date

3/30/2005

Date of Service (For NASD Dispute Resolution office use only)

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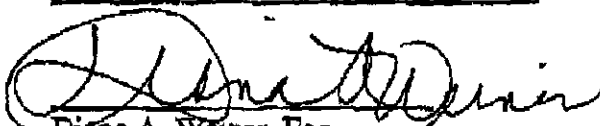
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William Hugh Nenninger  
Michael Scott Hill

Public Arbitrator, Presiding Chairperson  
Public Arbitrator  
Non-Public Arbitrator

Concurring Arbitrators' Signatures

  
Diana A. Weiner, Esq.  
Public Arbitrator, Presiding Chairperson

3-30-05  
Signature Date

William Hugh Nenninger  
Public Arbitrator

Signature Date

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 William Hugh Nenninger  
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 Public Arbitrator  
 Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Diana A. Weiner, Esq.  
 Public Arbitrator, Presiding Chairperson

William H. Nenninger  
 William Hugh Nenninger  
 Public Arbitrator

Signature Date

03-30-2005  
 Signature Date

NO. 370 P. 6

**Michael Scott Hill**  
**Non-Public Arbitrator**

3/30/05  
Signature Date