

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

---

In the Matter of the Arbitration Between:

Name of the Claimant  
Martha L. Bauer

Case Number: 04-00511

Names of the Respondents  
Raymond James Financial Services, Inc.  
Devon Financial Group, Ltd.  
Charles DiPuppo

Hearing Site: Philadelphia, PA

---

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

REPRESENTATION OF PARTIES

Claimant, Martha L. Bauer, hereinafter referred to as "Claimant", was represented by John F. McKenna, Esq., MacElree Harvey, Ltd., West Chester, Pennsylvania.

Respondents, Raymond James Financial Services, Inc. ("Raymond James") and Charles DiPuppo ("DiPuppo"), were represented by John J. Murphy, Stradley, Ronon, Stevens & Young, LLP, Philadelphia, Pennsylvania.

Respondent Devon Financial Group, Ltd. ("DFG") was initially represented by Robert C. Stokes, III, Esq., Raymond James Financial Services, Inc., St. Petersburg, Florida. Mr. Stokes withdrew as counsel for DFG on June 4, 2004. DFG did not voluntarily submit to arbitration and did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed on January 27, 2004.

Claimant signed the Uniform Submission Agreement on January 9, 2004.

Statement of Answer filed by Respondents on April 14, 2004.

Claimant filed a Reply to the Statement of Answer on April 30, 2004.

Respondent DiPuppo signed the Uniform Submission Agreement on April 8, 2004.

A representative of Respondent Raymond James executed the Uniform Submission Agreement on February 18, 2004.

Respondents Raymond James and DiPuppo filed an Amended Statement of Answer on June 4, 2004.

Claimant filed a Reply to the Amended Statement of Answer on June 10, 2004.

CASE SUMMARY

Claimant asserted the following causes of action, among others: breach of contract, suitability,

and violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Act. The causes of action relate to the purchase of Equitable Accumulator and Manulife Financial Venture annuities as well as several unspecified mutual funds.

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

RELIEF REQUESTED

Claimant in her Statement of Claim requested:

Compensatory Damages	\$200,962.00
Punitive Damages	\$401,924.00
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the Statement of Claim be dismissed, that they be awarded forum fees and costs, and that all references to this arbitration be expunged from Respondent DiPuppo's record maintained by the NASD Central Registration Depository.

OTHER ISSUES CONSIDERED AND DECIDED

In their Amended Statement of Answer, Respondents Raymond James and DiPuppo withdrew the Answer previously filed on behalf of DFG stating that DFG was not a member firm and did not voluntarily submit to arbitration.

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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitration Panel (the "Panel") has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Raymond James and DiPuppo are jointly and severally liable to and shall pay to Claimant compensatory damages in the amount of \$151,070.00 plus punitive damages in the amount of \$302,140.00. The authority for the award of punitive damages derives from the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTP/CPL"). Simple interest at the rate of 6% *per annum* is awarded on the above amounts. Interest shall accrue from January 9, 2004 until the date the award is paid in full;
2. Respondents Raymond James and DiPuppo are jointly and severally liable to and shall pay to Claimant attorneys' fees in the amount of \$32,207.56. Authority for the award of attorneys' fees derives from UTP/CPL;

3. Respondents Raymond James and DiPuppo are jointly and severally liable to and shall pay to Claimant witness fees in the amount of \$14,000.00;
4. The parties shall bear their respective costs, except as Fees are specifically addressed below; and
5. Any and all relief not specifically addressed herein is denied in its entirety.

#### 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
--------------------------	-------------

##### 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. Accordingly, Raymond James is a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$4,000.00</u>
Total Member Fees	= \$7,000.00

##### 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 a single arbitrator @ \$450.00	= \$ 450.00
---	-------------

Pre-hearing conference:	June 1, 2005	1 session
-------------------------	--------------	-----------

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

Pre-hearing conference:	August 11, 2004	1 session
-------------------------	-----------------	-----------

Five (5) Hearing sessions @ \$1,200.00	= \$6,000.00
--	--------------

Hearing Dates:	September 13, 2005	2 sessions
	September 14, 2005	2 sessions
	<u>September 15, 2005</u>	<u>1 session</u>

Total Forum Fees	= \$7,650.00
------------------	--------------

1. The Panel has assessed \$7,650.00 of the forum fees jointly and severally to Respondents Raymond James and DiPuppo.

FEE SUMMARY

1. Claimant is assessed and shall pay the following fees:

<u>Initial Filing Fee</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less payments</u>	= \$1,575.00
<u>Refund Due to Claimant</u>	= \$1,200.00

2. Respondent Raymond James is assessed and shall pay the following fees:

<u>Member Fees</u>	= \$7,000.00
<u>Total Fees</u>	= \$7,000.00
<u>Less payments</u>	= \$7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 00.00

4. Respondents are jointly and severally assessed and shall pay the following fees:

<u>Forum Fees</u>	= \$7,650.00
<u>Total Fees</u>	= \$7,650.00
<u>Less payments</u>	= \$ 00.00
<u>Balance Due NASD Dispute Resolution</u>	= \$7,650.00

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

ARBITRATION PANEL

George F. Adams, Esq.  
Joseph P. Flanagan, Jr.  
James M. Waters

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

NASD Dispute Resolution

Arbitration No. 04-00511

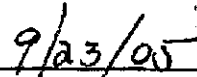
Award Page 5

Concurring Arbitrators' Signatures



George F. Adams, Esq.

Public Arbitrator, Presiding Chairperson



Signature Date

Joseph P. Flanagan, Jr

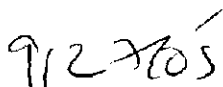
Public Arbitrator, Panelist

Signature Date

James M. Waters

Non-Public Arbitrator, Panelist

Signature Date



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

NASD Dispute Resolution

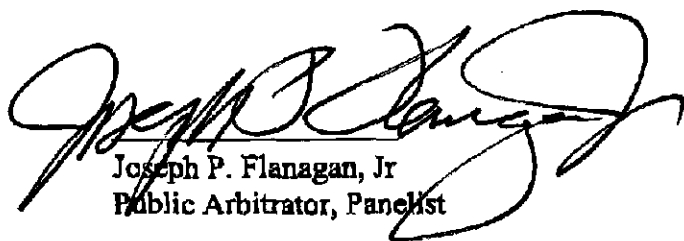
Arbitration No. 04-00511

Award Page 5

Concurring Arbitrators' Signatures

\_\_\_\_\_  
George F. Adams, Esq.  
Public Arbitrator, Presiding Chairperson

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

  
Joseph P. Flanagan, Jr.  
Public Arbitrator, Panelist

9/23/2005  
Signature Date

\_\_\_\_\_  
James M. Waters  
Non-Public Arbitrator, Panelist

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

9/27/05  
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution  
Arbitration No. 04-00511  
Award Page 5

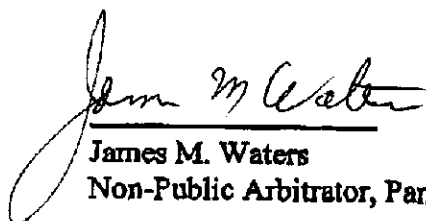
Concurring Arbitrators' Signatures

George F. Adams, Esq.  
Public Arbitrator, Presiding Chairperson

Signature Date

Joseph P. Flanagan, Jr  
Public Arbitrator, Panelist

Signature Date

  
James M. Waters  
Non-Public Arbitrator, Panelist

9/22/05  
Signature Date

9/22/05  
Date of Service (For NASD Dispute Resolution office use only)