

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Dr. Michael P. McCormack and
Mrs. Janelle A. McCormack

and

Case Number: 04-05628
Hearing Site: Des Moines, Iowa

Names of Respondents

Raymond James Financial Services, Inc.,
Winfield G. Mayne and Duane A. Sturm

NATURE OF DISPUTE

Customers v. Member and Associated Persons

REPRESENTATION OF PARTIES

Dr. Michael P. McCormack and Mrs. Janelle A. McCormack ("Claimants") were represented by Gail E. Boliver, Esq., Boliver Law Firm, Marshalltown, Iowa.

Raymond James Financial Services, Inc. ("Raymond James"), Winfield G. Mayne ("Mayne"), and Duane A. Sturm ("Sturm"), hereinafter collectively referred to as "Respondents," were represented by Wayne S. Rasmussen, Esq., Rasmussen & Mitchell, Omaha, Nebraska.

CASE INFORMATION

The Statement of Claim was filed on or about August 9, 2004. The Submission Agreement of Claimants was signed on or about July 28, 2004.

A Statement of Answer was filed jointly by Respondents, Raymond James Financial Services, Inc., Winfield G. Mayne, and Duane A. Sturm, on or about October 11, 2004. The Submission Agreement of Raymond James was signed on or about August 19, 2004. The Submission Agreement of Mayne was signed on or about October 14, 2004. The Submission Agreement of Sturm was signed on or about October 15, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; negligence;

violation of Iowa Securities Acts; violation of NASD Rules of Supervision and Suitability; misrepresentation; constructive fraud; negligent supervision; and breach of contract. The causes of action related to the recommendation and purchases of various unspecified technology and telecommunication stocks. Claimant alleged that Respondents failed to diversify their retirement portfolio based upon their investment objectives, which led to substantial losses in their account.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Claimants assumed the risks of investing in the securities and thus has no basis for any claim against the Respondents; the Claimants approved, authorized, ratified and/or acquiesced in the alleged acts, omissions, and misrepresentations, which form the basis of the subject complaint; and the Claimants cannot recover against the Respondents because the Respondents acted in good faith relying upon the Claimants' representations.

RELIEF REQUESTED

Claimants requested an award in the amount of \$516,000.00 in compensatory damages, costs and attorneys' fees and other relief the panel deemed just and proper.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

On or about September 10, 2004, Claimants Amended their Statement of Claim to request the hearing be moved from Omaha, Nebraska to Des Moines, Iowa.

On or about September 25, 2004, Respondents filed their Response to Claimants' Motion to Change the Venue.

The Director of Arbitration granted Claimants' Motion to Change the Venue to Des Moines, Iowa.

On or about October 28, 2005, Claimants filed a Request for Discovery Sanctions.

On or about November 3, 2005, Respondents filed a Motion for Sanctions.

On or about November 3, 2005, the panel entered an order denying Claimants' Request for Discovery Sanctions and Respondents' Motion for Sanctions.

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 NASD Dispute Resolution ("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) Respondent, Raymond James Financial Services, Inc., is liable for and shall pay to Claimants, Dr. Michael P. McCormack and Mrs. Janelle A. McCormack, the sum of \$70,000.00 in compensatory damages;
- 2) Respondents, Raymond James Financial Services, Inc., and Winfield G. Mayne, are jointly and severally liable for and shall pay to Claimant, Mrs. Janelle A. McCormack, the sum of \$8,000.00 in compensatory damages; and
- 3) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee	= \$ 375.00
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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 that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm is Raymond James Financial Services, Inc.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00	= \$ 900.00
Pre-hearing conferences: July 14, 2005	1 session
October 13, 2005	1 session
Two (2) Pre-hearing sessions with Panel x \$1,200.00	= \$ 2,400.00
Pre-hearing conferences: January 25, 2005	1 session
November 3, 2005	1 session
Six (6) Hearing sessions x \$1,200.00	= \$ 7,200.00
Hearing Dates: November 21, 2005	2 sessions
November 22, 2005	2 sessions
November 23, 2005	2 sessions
Total Forum Fees	= \$10,500.00

The Arbitration Panel has assessed \$10,500.00 of the forum fees to Raymond James Financial Services, Inc.

Fee Summary

Claimants, Dr. Michael P. McCormack and Mrs. Janelle A. McCormack, are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 1,575.00
Refund due to Claimants	= \$ 1,200.00

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

Member Fees	= \$ 7,000.00
Forum Fees	= \$10,500.00
Total Fees	= \$17,500.00
Less payments	= \$ 8,200.00
Balance Due NASD Dispute Resolution	= \$ 9,300.00

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

ARBITRATION PANEL

Peter Ordower, Esq. – Public Arbitrator, Presiding Chair

Jack J. Herman, JD - Public Arbitrator

John R. Lepley, CFP, JD - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Peter Ordower, Esq.

Peter Ordower, Esq.

Public Arbitrator, Presiding Chair

11/30/05

Signature Date

/s/ Jack J. Herman, JD

Jack J. Herman, JD

Public Arbitrator

11/30/05

Signature Date

/s/ John R. Lepley, CFP, JD

John R. Lepley, CFP, JD

Non-Public Arbitrator

11/30/05

Signature Date


12/01/05

Date of Service (For NASD office use only)

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11/30/05

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Peter Ordower, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Jack J. Herman, JD
Public Arbitrator

Signature Date



John R. Lepley, CFP, JD
Non-Public Arbitrator

November 30, 2005

Signature Date

Date of Service (For NASD office use only)