

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

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In the Matter of the Arbitration Between:

Names of Claimants

Mark E. Laurnen and Cynthia J. Laurnen

vs.

Case Number: 05-01668  
Hearing Site: Denver, Colorado

Names of Respondents

Raymond James Financial Services, Inc.,  
Dennis A. Leonida, and  
Capital Financial Group, Inc.

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**NATURE OF THE DISPUTE**

Customers vs. Member, Associated Person, and Non-Member

**REPRESENTATION OF PARTIES**

Mark E. Laurnen and Cynthia J. Laurnen, hereinafter collectively referred to as "Claimants," were represented by Matthew M. Wolf, Esq., and Patrick D. Vellone, Esq., Allen & Vellone, PC, Denver, Colorado.

Raymond James Financial Services, Inc. ("Raymond James") was represented by Terrance A. Bostic, Esq., Raymond James Financial Services, Inc., St. Petersburg, Florida.

Dennis A. Leonida ("Leonida") and Capital Financial Group, Inc. ("Capital Financial") were represented by Martin M. Berliner, Esq., Berliner McDonald, PC, Greenwood Village, Colorado.

**CASE INFORMATION**

The Statement of Claim was filed on or about March 28, 2005. The Submission Agreement of Claimants, Mark E. Laurnen and Cynthia J. Laurnen, was signed on or about March 23, 2005.

The Statement of Answer was filed by Respondent, Raymond James Financial Services, Inc., on or about June 13, 2005. The Submission Agreement of Respondent, Raymond James Financial Services, Inc., was signed on or about April 19, 2005.

The Statement of Answer was filed by jointly by Respondents, Dennis A. Leonida and Capital Financial Group, Inc., on or about June 15, 2005. The Submission Agreement of Respondent, Dennis A. Leonida, was signed on or about June 1, 2005. The Submission Agreement of Respondent, Capital Financial Group, Inc., was signed on or about June 1, 2005.

### **CASE SUMMARY**

Claimants asserted the following causes of action: breach of fiduciary duty; common law fraud; negligent misrepresentation; violation of the Colorado Securities Act; violation of federal securities laws; and negligent supervision. Claimants alleged that Respondents recommended that Claimants participate in an investor group for the sole purpose of purchasing a telecommunication company ("ComTec") through the use of a commercial loan. Claimants alleged Respondents, through the actions of Leonida, misled them to the net worth and financial stability of ComTec. Claimants further alleged that after an independent review, it was discovered that ComTec was insolvent at the time of purchase, was not a suitable investment, and as a result Claimants have suffered financial consequences.

Unless specifically admitted in its Answer, Raymond James denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants were fully advised of and understood the nature of their investments; Claimants failed to mitigate their damages through the continued maintenance and pursuit of their trading strategy in their Raymond James accounts; any losses were the result of market fluctuations and risks which accompanied or occasioned a general market turndown that began in 2000, not by any act or omission by Raymond James; Claimants are not entitled to any recovery against Raymond James because Raymond James acted at all times in good faith and exercised reasonable diligence in its dealings with Claimants; and Claimants made various representations about their investment objectives and Raymond James reasonably relied upon those representations and Claimants are estopped from recovery on the basis on allegations which are inconsistent with those representations.

Unless specifically admitted in their Answer, Capital Financial and Leonida jointly denied the allegations made in the Statement of Claim.

### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$ 1,500,000.00
Exemplary/Punitive Damages	\$ 1,500,000.00
Attorneys' Fees	Unspecified
Interest	Unspecified

Other Costs  
Other Monetary Relief

Unspecified  
Unspecified

Respondent, Raymond James Financial Services, Inc., requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

Respondents, Dennis A. Leonida and Capital Financial Group, Inc., 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**

At the conclusion of the hearings, the Panel granted the parties until October 13, 2006 in which to file post-hearing briefs in the above-referenced matter.

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, the evidence presented at the hearing, and the post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

- 1.) Based on the claims of negligence, suitability, and negligent supervision, Respondents, Raymond James Financial Services, Inc., and Capital Financial Group, Inc., are jointly and severally liable for and shall pay to Claimants, Mark E. Laurnen and Cynthia J. Laurnen, the sum of \$ 469,917.95 (Four Hundred Sixty Nine Thousand Nine Hundred Seventeen Dollars and Ninety Five Cents) in compensatory damages;
- 2.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; 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 = \$ 500.00

### **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 Raymond James Financial Services, Inc.

Member surcharge	= \$ 2,800.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 5,000.00

### **Adjournment Fees**

Adjournments granted during these proceedings:

April 5-7 and April 10-14, 2006,  
Adjournment requested by Claimants and Raymond James = \$ 1,200.00  
(Fee Assessed by the Panel ½ to Claimants, jointly and severally  
and ½ to Respondent, Raymond James Financial Services, Inc.)

### **Forum Fees and Assessments**

The Panel has assessed forum fees for each hearing session conducted or each decision rendered on a discovery-related motion on the papers. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators that last four (4) hours or less. Fees associated with these proceedings are:

One (1) Decision on a discovery-related motion on the papers with three (3) arbitrators @ \$600.00	= \$ 600.00
Claimants submitted One (1) discovery-related motion	

Two (2) Pre-hearing sessions with Panel x \$ 1,200.00	= \$ 2,400.00
Pre-hearing conferences: October 10, 2005	1 session
July 21, 2006	1 session

Seventeen (17) Hearing sessions x \$ 1,200.00 = \$ 20,400.00

Hearing Dates:	July 24, 2006	2 sessions
	July 25, 2006	2 sessions
	July 26, 2006	2 sessions
	July 27, 2006	2 sessions
	July 28, 2006	2 sessions
	September 25, 2006	2 sessions
	September 26, 2006	2 sessions
	September 27, 2006	2 sessions
	September 29, 2006	1 session

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Total Forum Fees = \$ 23,400.00

The Panel has assessed \$ 23,400.00 of the forum fees jointly and severally to Raymond James Financial Services, Inc. and Capital Financial Group, Inc.

### **FEE SUMMARY**

Claimants, Mark E. Laurnen and Cynthia J. Laurnen, are jointly and severally liable for:

Initial Filing Fee	= \$ 500.00
Adjournment Fee	= \$ 600.00
Total Fees	= \$ 1,100.00
Less payments	= \$ 1,700.00
Refund Due Claimants	= \$ 600.00

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

Member Fees	= \$ 8,550.00
Adjournment Fee	= \$ 600.00
Total Fees	= \$ 9,100.00
Less payments	= \$ 8,550.00
Balance Due NASD Dispute Resolution	= \$ 600.00

Respondents, Raymond James Financial Services, Inc. and Capital Financial Group, Inc., are jointly and severally liable for:

Forum Fees	= \$ 23,400.00
Total Fees	= \$ 23,400.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 23,400.00

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

**ARBITRATION PANEL**

J. Robert Brown, Jr., Esq. – Public Arbitrator, Presiding Chair  
Rhonda L. Rhodes, Esq. - Public Arbitrator  
Judy E. Larkins - Non-Public Arbitrator

Concurring Arbitrators' Signatures:

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J. Robert Brown, Jr., Esq.  
Public/Non-Public Arbitrator, Presiding Chair

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Signature Date

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Rhonda L. Rhodes, Esq.  
Public Arbitrator

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Signature Date

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Judy E. Larkins  
Non-Public Arbitrator

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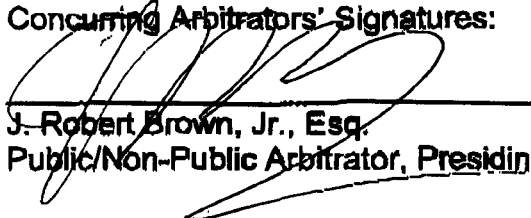
Signature Date

10/26/06  
Date of Service (For NASD office use only)

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Public/Non-Public Arbitrator, Presiding Chair

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Rhonda L. Rhodes, Esq.  
Public Arbitrator

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10-25-06

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Non-Public Arbitrator

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