
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Michael J. Martin, Jr., individually and as
Personal Representative of the Estate of
Michael J. Martin, Sr.

Case Number: 05-03409

Name of the Respondent

Raymond James & Associates, Inc.

Hearing Site: Tampa, Florida.

Name of Third-Party Respondent

Helen Martin

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

REPRESENTATION OF PARTIES

For Michael J. Martin, Jr., individually and as Personal Representative of the Estate of Michael J. Martin, Sr., hereinafter collectively referred to as "Claimants": Robert Persante, Esq., Persante & McCormack, P.A., Clearwater, Florida.

For Respondent Raymond James & Associates, Inc., hereinafter referred to as "Raymond James": Joseph L. Larrinaga, Esq., Raymond James & Associates, Inc., St. Petersburg, Florida.

For Third-Party Respondent Helen Martin, hereinafter referred to as "H. Martin": Michael E. Beam, Esq., Doran & Beam, P.A., New Port Richey, Florida.

CASE INFORMATION

Statement of Claim filed on or about: July 5, 2005.

Claimants signed the Uniform Submission Agreement on: June 29, 2005.

Answer and Third Party Cross-claim filed by Respondent Raymond James on or about: October 12, 2005.

Respondent Raymond James signed the Uniform Submission Agreement on: September 9, 2005.

Answer to the Third Party Cross-claim filed by Respondent H. Martin on or about: December 22, 2005.

Third Party Respondent H. Martin did not submit an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of fiduciary duty; 2) negligence/gross negligence; and 3) violation of Florida Statutes Chapter 517; and 4) violation under the common law

doctrine of respondeat superior. The causes of action relate to Claimants' investments in, including but not limited to, Transamerica Dreyfus Triple Advantage Variable Annuity, Franklin Income Fund, and Dreyfus Core Bond Fund.

Unless specifically admitted in its Answer, Respondent Raymond James denied the allegations made in the Statement of Claim and asserted various affirmative defenses. In its Third Party Cross-claim, Respondent Raymond James asserted the following cause of action: unjust enrichment.

Unless specifically admitted in her Answer, third-party Respondent H. Martin denied the allegations made in the third-party claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested the following relief: 1) compensatory damages in excess of \$800,000.00; 2) attorneys' fees; 3) costs; 4) pre- and post-judgment interest; 5) unspecified punitive damages; 6) forum fees and expert witness fees; and 7) such other and further relief as the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent Raymond James requested the following relief: 1) dismissal of all claims against Respondent Raymond James, with prejudice; 2) expungement of all references to this matter from the Central Registration Depository ("CRD"); and 3) an order that fees and costs be awarded. In its Third Party Cross-claim, Respondent Raymond James requested unspecified compensatory damages.

Third-Party Respondent H. Martin request the following relief: 1) dismissal of the Third Party Cross-claim, with prejudice; and 2) attorneys' fee and cost.

OTHER ISSUES CONSIDERED AND DECIDED

On or about February 8, 2006, the Panel entered an order wherein the Panel states the following: "H. Martin is not a party [in the above captioned arbitration proceeding] because she refuses to file a [Uniform] Submission Agreement. This ruling is based on the fact that H. Martin is not a registered representative and the Panel cannot exercise jurisdiction over H. Martin in this case." Accordingly, H. Martin was dismissed from this arbitration proceeding.

At the evidentiary hearing, Respondent Raymond James made an ore tenus motion to dismiss Michael J. Martin, Jr. in his individual capacity. On or about November 2, 2006, the Panel granted Respondent Raymond James motion to dismiss Michael J. Martin, Jr. in his individual capacity.

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, 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. All of Claimants' claims are denied.
2. Any and all claims for relief not specifically addressed herein, including Claimants' claims under Florida Statute, Ch. 517, Claimants' request for attorneys' fees, Respondent Raymond James' request for expungement of its CRD record and third-party Respondent H. Martin's request for attorneys' fees, are denied.

FEES

Pursuant to the NASD Code of arbitration procedures, (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	= \$ 375.00
Third-party 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. Accordingly, Respondent Raymond James is a member firm and 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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

There were no adjournments requested during these proceedings for which fees were assessed.

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:

One (1) Pre-hearing session with the Panel @ \$1,200.00 per session	= \$1,200.00
Pre-hearing conference: February 8, 2006	1 session
Four (4) Hearing sessions with the Panel @ \$1,200.00 per session	= \$4,800.00
Hearing dates: October 17, 2006	2 sessions
October 18, 2006	2 sessions
<hr/>	
Total Forum Fees	= \$6,000.00

The Panel has assessed forum fees in the amount of \$3,000.00 to Claimant Michael J. Martin, Jr. as Personal Representative of the Estate of Michael J. Martin, Sr.

The Panel has assessed forum fees in the amount of \$3,000.00 to Respondent Raymond James.

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

Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Claimant Michael J. Martin, Jr. as Personal Representative of the Estate of Michael J. Martin, Sr. is solely liable for:

Forum Fee	= \$ 3000.00
Total Fees	= \$ 3,000.00
Less payments	= \$ 1,200.00
Balance Due NASD Dispute Resolution	= \$ 1,800.00

Respondent Raymond James is solely liable for:

Third-Party Claim Filing Fee	= \$ 500.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$10,500.00
<u>Less payments</u>	<u>= \$ 8,500.00</u>
Balance Due NASD Dispute Resolution	= \$ 2,000.00

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

ARBITRATION PANEL

<i>Andrew N. Carnell, Esq.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Robert N. Duggan, Esq.</i>	-	<i>Public Arbitrator</i>
<i>David Lockhart</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

 /s/
Andrew N. Carnell, Esq.
Public Arbitrator, Presiding Chairperson

November 3, 2006
Signature Date

 /s/
Robert N. Duggan, Esq.
Public Arbitrator

November 3, 2006
Signature Date

 /s/
David Lockhart
Non-Public Arbitrator

November 3, 2006
Signature Date

November 3, 2006
Date of Service (For NASD Dispute Resolution office use only)

NASD Dispute Resolution
Arbitration No. 05-03409
Award Page 5

Respondent Raymond James is solely liable for:

Third-Party Claim Filing Fee	= \$ 500.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$10,500.00
Less payments	= \$ 8,500.00
Balance Due NASD Dispute Resolution	= \$ 2,000.00

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

ARBITRATION PANEL

Andrew N. Camell, Esq. - *Public Arbitrator, Presiding Chairperson*
Robert N. Duggan, Esq. - *Public Arbitrator*
David Lockhart - *Non-Public Arbitrator*

Concurring Arbitrators' Signatures

Andrew N. Camell
Andrew N. Camell, Esq.
Public Arbitrator, Presiding Chairperson

11/3/06
Signature Date

Robert N. Duggan, Esq.
Public Arbitrator

Signature Date

David Lockhart
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution
Arbitration No. 05-03409
Award Page 5

Respondent Raymond James is solely liable for:

Third-Party Claim Filing Fee	= \$ 500.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$10,500.00
Less payments	= \$ 8,500.00
Balance Due NASD Dispute Resolution	= \$ 2,000.00

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

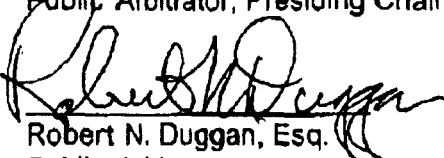
ARBITRATION PANEL

Andrew N. Carnell, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert N. Duggan, Esq.	-	Public Arbitrator
David Lockhart	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Andrew N. Carnell, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date


Robert N. Duggan, Esq.
Public Arbitrator


Signature Date

David Lockhart
Non-Public Arbitrator

Signature Date

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

Respondent Raymond James is solely liable for:

Third-Party Claim Filing Fee	= \$ 500.00
Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,000.00
Total Fees	= \$10,500.00
Less payments	= \$ 8,500.00
Balance Due NASD Dispute Resolution	= \$ 2,000.00

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

ARBITRATION PANEL

Andrew N. Carnelli, Esq.	-	Public Arbitrator, Presiding Chairperson
Robert N. Duggan, Esq.	-	Public Arbitrator
David Lockhart	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Andrew N. Carnelli, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Robert N. Duggan, Esq.
Public Arbitrator

Signature Date



David Lockhart
Non-Public Arbitrator



Signature Date

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