

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Raymond F. Heesch

90-03113

Name of Respondents

Raymond, James & Associates, Inc.  
Robert Thomas Securities, Inc.

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REPRESENTATION

Raymond F. Heesch appeared pro se.

Robert Thomas Securities, Inc. and Raymond James & Associates, Inc. were represented by Paul L. Matecki, Esq., General Counsel.

CASE SUMMARY

In a Statement of Claim filed with the National Association of Securities Dealers, Inc. ("NASD") on or about November 5, 1990, Raymond F. Heesch ("Claimant") alleged that Mark Forbes made material misrepresentations in connection with the offer for sale and sale of GNMA Plus Trust Fund and Putnam High Income Government Plus Trust Fund. Claimant also alleged that Robert Thomas Securities, Inc. and Raymond James & Associates, Inc. (collectively as "Respondents") violated NASD Rules of Fair Practice and failed to continue to inform him of the current prices of the mutual funds or advise him whether to keep or sell the funds. On or about December 31, 1990, Claimant submitted an amendment to the Statement of Claim wherein he cited Rules of Fair Practice to support his request for punitive damages.

In their joint Statement of Answer filed with the NASD on or about January 8, 1991, Respondents denied the allegations set forth in the Statement of Claim. Respondents specifically stated that Claimant was provided the appropriate prospectus for each mutual fund; that the Claimant received statements from the mutual funds on a regular basis which reflected the current values of the funds; and that Claimant made independent investment decisions regarding selling the GNMA fund and purchasing shares of the Putnam High Income Government Plus Trust Fund. Respondents also asserted the affirmative defenses: statute of limitations, assumption of the risk, ratification, estoppel, waiver, lack of due diligence, negligence, absence of intent, good faith and failure to mitigate.

### RELIEF REQUESTED

Claimant requested an award in the amount of \$36,299.443, interest and treble damages.

Respondents requested that the Statement of Claim be dismissed and that they be awarded their costs and attorneys fees.

### PROCEDURAL MATTERS

On Thursday, June 20, 1991 in Omaha, Nebraska during a hearing lasting a total of two (2) sessions, the undersigned arbitrators heard the controversy between the parties as set forth in submissions to arbitration signed on October 3, 1990 by Claimant Raymond F. Heesch, on January 7, 1991 by Dennis W. Zank on behalf of Respondent Raymond James & Associates, Inc. and on January 7, 1991 by J. Stephen Putnam on behalf of Respondent Robert Thomas Securities, Inc.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award be entered. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with the NASD.

### AWARD

The arbitration panel, having considered the pleadings, the testimony, and the evidence presented at the hearing, has decided in full and final resolution of the issues submitted for determination as follows:

1. The statement of claim shall be and hereby is dismissed in its entirety;
2. Each party shall bear its own costs, expenses and attorneys fees; and
3. Pursuant to Section 43(c) of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the hearing session deposit in the amount of \$750.00 previously deposited with the NASD by the Claimant and Respondents shall pay to the NASD the sum of \$750.00 as forum fees.

Dated: June 20, 1991

Arnold J. Stern, Esq.  
Presiding Chair  
Public Arbitrator

Dated: June 20, 1991

Larry R. Trussell  
Public Arbitrator

Dated: June 20, 1991

Richard L. Rickets  
Industry Arbitrator

Date Served: June 21, 1991