

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimants

Lindsay and Sharon Bassing

92-02656

Name of Respondents

Raymond, James & Associates, Inc.  
Arthur DeMartine

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on August 10, 1992, Claimants Lindsay and Sharon Bassing, who appeared Pro Se, alleged that in December 1988 they went to Respondent Raymond James & Associates, Inc. in Crystal River to discuss the rollover of a current Certificate of Deposit ("CD"), they met Respondent Arthur DeMartine, at which time, Respondent Arthur DeMartine advised Claimants to invest in MFS Government Income Plus Fund. Claimants further alleged that they were concerned about the safety, stability and security of this type of investment, whereby Respondent Arthur DeMartine advised them it was "as safe or safer than a C.D." Claimants contended that only after taking \$20,000.00 of the money they had to invest and putting it in zero coupon bonds were Claimants persuaded to invest, whereby Respondent Arthur DeMartine continued to assure them the investment was safe and backed by the full faith of the U.S. Government. Claimants further contended that they called several times about the continued decline of the share price but were told by Respondents that there was no problem, it was just regular activity. Claimants asserted that they contacted several brokers to inquire about their opinion of the MFS Fund and the adjectives used by the brokers were "risky" and "volatile". Claimants further asserted that they were misled by Respondent Arthur DeMartine's misrepresentation and used by him. Claimants argued that they relied on their investment for income and the loss of principal greatly affects their future, therefore, Respondents should be held accountable.

Respondents Raymond James & Associates, Inc. and Arthur DeMartine, by and through their in-house counsel, Kevin A. Carreno, Esq., maintained that Claimants Lindsay and Sharon Bassing were provided a copy of the prospectus which set forth the fund's objective and stated

the fund's shares would fluctuate with the market. Respondents further maintained that Respondent Arthur DeMartine informed Claimants that the fluctuations were based on prevailing market conditions and indicated to them that the investment was performing as expected by paying an above average current rate of income. Respondents contended that had Claimants not liquidated their MFS shares, Claimants would have received approximately an 8% annualized return.

### **RELIEF REQUESTED**

Claimants Lindsay and Sharon Bassing requested \$8,500.00 in actual damages.

Respondent Raymond James & Associates, Inc. and Arthur DeMartine requested the claim be dismissed and costs be assessed against Claimants.

### **AWARD**

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John F. Howes, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on August 4, 1992, by the Respondent Raymond James & Associates, Inc. on September 11, 1992 and by the Respondent Arthur DeMartine on December 10, 1992.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. The claims of Claimants Lindsay and Sharon Bassing against Respondents Raymond James & Associates, Inc. and Arthur DeMartine are dismissed.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants Lindsay and Sharon Bassing shall be retained by the NASD, Inc. The Respondents Raymond James & Associates, Inc. and Arthur DeMartine are liable and shall pay to the Claimants the sum of \$150.00 as reimbursement.

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**AFFIRMATION**

I, JOHN F. HOWES, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award

  
Signature of Arbitrator

DATE OF DECISION: April 21, 1993