

1/95

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

9501063

In the Matter of the Arbitration Between

Name of Claimant(s)

David W. Jonsson

Case No. 93-01860

Name of Respondent(s)

Raymond, James & Associates, Inc.
Thomas A. James
Raymond James Financial, Inc.
Lawrence A. Silver
Frederick L. Botts
Alfred R. Ernst, Jr.
Alex J. Sabo, Jimmy Pate, and Herbert Ehlers

REPRESENTATION

For Claimant, David W. Jonsson ("Jonsson"): Boris J. Lewyckyj, Esq. New York, New York.

For Respondents, Raymond James & Associates, Inc. ("RJA"), Thomas A. James ("James"), Raymond James Financial, Inc. ("RJF"), Lawrence A. Silver ("Silver"), Frederick Botts ("Botts"), Alfred Ernst, Jr. ("Ernst"): John N. Critchlow, Esq. of Raymond James & Associates, Inc., Tampa, Florida.

CASE INFORMATION

Statement of Claim filed: May 10, 1993 and Claimant's Amended Statement of Claim filed March 14, 1994. Claimant's Submission Agreement signed: May 3, 1993.

Respondents' Statement of Answer filed: August 26, 1993.

HEARING INFORMATION

On July 22 and August 12, 1994, pre-hearing conferences lasting two (2) sessions were conducted via telephone conference call with an arbitrator.

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Hearing Information Cont.

On August 23, 24 and 25, 1994; November 14, 15, 16, 17, 28, 29, and 30, 1994, in Tampa, Florida, hearings lasting 20 sessions were conducted.

CASE SUMMARY

Claimant alleged that Respondents RJA and James, themselves and through their agents knowingly and maliciously defamed the Claimant by publishing various false statements about the Claimant to the media and other third parties. Such defamation has caused enormous harm to the Claimant's business and professional reputation within the brokerage business community and has negatively affected Claimant's ability to earn a living in the practice of his profession.

Claimant also alleged that Respondents through the commission of six mail and wire fraud violations of federal laws, over a period of 10 years, engaged in a pattern of racketeering activity which affected interstate and/or foreign commerce, to control and operate a business entity called an enterprise.

Claimant further alleges that Respondent RJA, is in breach of contract because RJA failed to provide legal representation for Claimant during a New York Stock Exchange (NYSE) investigation. The Claimant assert that the NYSE investigation was instituted as a result of Claimant following RJA's company policy.

Respondents denied all allegations of wrongdoing and alleged that none of the statements Claimant alleges were false and, in addition, that none were defamatory nor were they made with malice. Respondents assert that the Claim under the Racketeering And Corrupt Organizations Act are factually deficient and in addition the Claimant lacked standing to make any claim under the RICO statute. The Respondents further asserts that they did not breach any contractual duties to the Claimant because no contractual duties were owed to the Claimant and the Respondent contend that the suppose breach did not even occur.

Respondent, RJA, filed a Counterclaim and alleged that the Claimant's retention and disclosure of RJA's written materials and practices constitutes a violation of Claimant's contractual obligation to RJA and that certain statements made by the Claimant concerning RJA were false and defamatory.

RELIEF REQUESTED

Claimant requested damages in the amount of \$1,500,000 for the Defamation Claim and \$1,500,000 on the RICO Claim and statutory trebling of RICO to \$4,500,000, plus costs and attorney's fees.

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Relief Requested cont.

Respondents requested attorney's fees incurred in defending this action, and that an award in favor of Counter/Claimant, RJA, and against Claimant awarding actual and punitive damages, plus interest, and awarding RJA its attorney's fees and costs.

OTHER ISSUES CONSIDERED & DECIDED

During the hearing the Claimant voluntarily dismissed its Claims against Respondents, RJF, Silver, Botts, Ernst, Sabo, Pate and Ehlers.

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 originals remain on file with the 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:

Respondents, Raymond James & Associates, Inc. and Thomas A. James, are found not liable and, therefore, all claims against them are hereby dismissed.

Claimant's requests for defamation damages, RICO treble damages, costs and attorney's fees are denied.

Claimant/Counter Respondent, Jonsson is found not liable and, therefore, all claims against him are hereby dismissed.

Counterclaimant, RJA, request for actual and punitive damages plus interest and attorneys' fees and costs are denied.

OTHER COSTS

Other than as provided below the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

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FORUM FEES

Pursuant to Section 44(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$20,600.00 (two pre-hearing conferences x \$300.00 plus 20 hearing sessions x \$1,000.00 per session).

Claimant is hereby assessed \$10,300.00 for which the NASD shall retain the \$10,300.00 of the previously deposited \$15,300.00 in satisfaction thereof leaving a balance due to the Claimant of \$5,000.00 which the National Association of Securities Dealers, Inc. will reimburse to the Claimant.

Respondents are hereby assessed \$10,300.00 for which the NASD shall retain the \$10,300.00 of the previously deposited \$15,300.00 in satisfaction thereof leaving a balance due to the Respondent of \$5,000.00 which the National Association of Securities Dealers, Inc. will reimburse to the Respondent.

Concurring Arbitrators' Signatures

/S/
Steven A. Hurst

Industry

/S/
Douglas Delanoy, Jr.

Industry

/S/
Richard D. Longacre

Industry

Date of Decision: January 18, 1995