

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimants

Ronald H. and Claire E. Yogman

95-00230

Name of Respondents

Raymond, James & Associates, Inc.  
Michael D. Baker

REPRESENTATION

For Claimants Ronald H. and Claire E. Yogman ("the Yogmans"): Eric E. Ludin, Esq. of Piper & Ludin, St. Petersburg, FL.

For Respondents, Raymond James Associates, Inc. ("Raymond James") and Michael D. Baker ("Baker"): Delmer C. Gowing, III, Esq. of Hertz, Schram & Saretsky, P.C., West Palm Beach, FL.

CASE INFORMATION

Statement of Claim Received: 12/6/94.

Claimant's Submission Agreement signed on: 12/1/94.

Respondents', Raymond James and Baker's, Joint Statement of Answer Received: 4/13/95.

Respondents' Amended Affirmative Defenses Received: 8/7/95.

Claimants' Response to Respondents' Amended Affirmative Defenses Received: 8/10/95.

Respondent, Raymond James' Submission Agreement/Corporate Acknowledgement signed on: 4/4/95 (by Paul L. Matecki, on behalf of the firm).

Respondent, Baker, did not file an executed Submission Agreement as required under Sections 12 and 25 of the Code of Arbitration Procedure

HEARING INFORMATION

A pre-hearing telephone conference lasting one (1) session was conducted on: 1/15/96 with the Chairman of the Panel.

Hearing Dates/Sessions: 6-24-96/two (2) sessions.  
6-25-96/two (2) sessions.  
6-26-96/two (2) sessions.  
6-27-96/two (2) sessions.

Hearing Location: Tampa, Florida

### **CASE SUMMARY**

Claimants alleged that they are unsophisticated investors; that they advised Baker that their primary investment objective was preservation of Capital, long-term growth, and a reasonable rate of return and that their account produce moderate income to supplement their income and to assist in their support and the support of their autistic daughter and college-age son; that Respondents, through numerous misrepresentations, induced them to take their portfolio which contained safe, secure, and diversified investments most of which were conservative, low-risk mutual funds, certificates of deposits, and various stock holdings in public utilities and blue chip stocks, and open a margin account with Respondents; that after opening the account, a high volume of transactions were executed by the Respondents in the account which were unsuitable for Claimants in light of Claimants' financial situation and needs and Claimants' investment objectives. Claimants maintained that they invested in excess of \$200,000.00 with Raymond James and that because of the actions of the Respondents their account has been decimated and is valued at approximately \$20,000.00 as of the filing of this claim.

Respondents denied all allegations of wrongdoing contained in the Statement of Claim and maintained that in December, 1992, an updated customer agreement was executed by Claimants and that speculation and long-term growth were primary investment objectives and short term trading and income were secondary objectives; that an updated option Agreement and Suitability Form was executed by Claimants in March 1993, clearly indicating that Ronald Yogman was suitable to engage in option trading. Respondents further stated that it was clear that Claimants fully intended to speculate with a portion of their assets and that they participated in each and every decision involving purchases and sales of securities from August 1992 through May, 1994; that Claimant, Ronald Yogman, habitually followed the stock market during this time and made several unsolicited choices with respect to the purchase and/or sale of securities which contributed to his own losses.

### **RELIEF REQUESTED**

Claimants requested an Award against respondents for compensatory damages, pre-judgment interest, costs, attorney's fees, punitive damages, treble damages and such other and further relief as the Arbitration Panel deems appropriate.

Respondents requested that the Claim be denied and that costs and attorneys fees be assessed against Claimants.

### **OTHER ISSUES CONSIDERED & DECIDED**

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 and post hearing submissions (if any), the undersigned arbitrators have decided in full and final resolution

of the issues submitted for determination as follows:

1. Respondent, Raymond James, is found liable and shall pay to Claimants the amount of \$165,000.00 including interest.
2. Respondent, Baker, is found liable and shall pay to Claimants the amount of \$45,000.00 including interest.
3. Claimants' requests for, punitive damages, attorneys' fees and treble damages are hereby denied.
4. All other claims are denied.

### **OTHER COSTS**

The parties shall each bear all other costs and expenses incurred in connection with this proceeding.

### **FORUM FEES**

Pursuant to Section 43c of the Code of Arbitration Procedure, the Panel has assessed Forum Fees in the amount of \$6,300.00 (eight (8) hearing sessions X \$750.00 + one (1) pre-hearing telephone conference X \$300.00).

1. Respondents are hereby jointly and severally assessed forum fees in the amount of \$6,300.00, \$750.00 of which shall be paid directly to the Claimants and the remaining \$5,550.00 shall be paid to the NASD, Inc.

2. The NASD shall retain the \$750.00 hearing session deposit paid by the Claimants.
3. The NASD shall retain the \$200.00 non-refundable filing fee paid by the Claimants.
4. The NASD shall retain the \$350.00 non-refundable member surcharge paid by Respondent, Raymond James.

Fees are payable to the National Association of Securities Dealers, Inc.

**ARBITRATION PANEL**

**Concurring Arbitrators' Signatures**

/s/

\_\_\_\_\_  
Sherman S. Cohen, Esq.

Public/Chairman

/s/

\_\_\_\_\_  
Don Porter

Public/Panelist

/s/

\_\_\_\_\_  
Robert Schwartz

Industry/Panelist

Date of Decision: August 9, 1996