

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Nettie Kamsler Rev. Trust

95-00817

Name of Respondents

Raymond James & Associates, Inc.
Bruce Rhodes

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on February 16, 1995, Claimant Nettie Kamsler Rev. Trust ("Kamsler"), who appeared through its representatives, Jacob and Nettie Kamsler as Trustees, alleged that Respondents Raymond James & Associates, Inc. ("RJA"), and Bruce Rhodes ("Rhodes"), misrepresented the American Adjustable Rate 99 ("AAR") and Franklin Valuemark II ("FV") investments, which it bought. Claimant further alleged that Rhodes said that the capital would be repaid upon maturity and that there would not be a commission which was false. Claimant contended that Rhodes was not a good salesman, and that as a result of the above, it has suffered a loss for which the Respondents should be held liable.

Respondents Raymond James & Associates, Inc., and Bruce Rhodes, through their representative and in-house counsel, John N. Critchlow, Esq., located in St. Petersburg, FL, maintained that both investments were appropriate for the Kamsler and were fully explained prior to the investment being made. Respondents further maintained that an extensive evaluation of the trust was performed as indicated through worksheets compiled from information gathered over several meetings after which changes were recommended. Respondents contended that Kamsler was provided with a prospectus and knew the risks associated with the investments and had accepted them. Respondents further contended that Kamsler has not lost money on FV because of a switch of those assets to Allianz annuity and that only in hindsight is there a complaint about the investment. Respondents maintained that as a result of the above, they should not be held liable.

RELIEF REQUESTED

Claimant Nettie Kamsler Rev. Trust, requested \$4,700.00 in actual damages, plus costs.

Respondents Raymond James & Associates, Inc. and Bruce Rhodes, requested that the claims of the Claimant be dismissed.

AWARD

Pursuant to Section 13 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Laz L. Schneider, Esq., was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Nettie Kamsler Rev. Trust, on March 23, 1995, and by the Respondents Bruce Rhode, on July 24, 1995, and Raymond James & Associates, Inc., on July 20, 1995.

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 the Claimant Nettie Kamsler Rev. Trust, against Respondents Bruce Rhodes and Raymond James & Associates, Inc., are dismissed in their entirety.
2. The parties shall bear their respective costs.
3. All other relief requests are denied.
4. The \$125.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Nettie Kamsler Rev. Trust, shall be retained by the NASD, Inc. The Respondents Bruce Rhodes, and Raymond James & Associates, Inc., are liable and shall pay to the Claimant Nettie Kamsler Rev. Trust, \$62.50 as reimbursement of one-half of the filing fee.

AFFIRMATION

I, **LAZ L. SCHNEIDER, ESQ.**, 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.



Laz L. Schneider, Esq.

DATE OF DECISION: October 5, 1995