

N.A.S.D. AWARD**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

In the Matter of the Arbitration Between

Name of Claimant

Wenceslao Gonzales

NASD CASE NO. 96-02126

Name of Respondents

Raymond James & Associates, Inc.
and Bill J. Short, II

REPRESENTATION

For Claimant: James L. Karl II, Esq. of James Karl & Associates, Marco Island, Florida.

For Respondents: Paul L. Matecki, Esq., Corporate Counsel of Raymond James & Associates, Inc.

CASE INFORMATION

Statement of Claim filed on May 17, 1996.

Claimant's Submission Agreement signed on May 24, 1996.

Statement of Answer and Counterclaim filed by Respondents Raymond James & Associates, Inc. ("Raymond James") and Bill J. Short ("Short") on July 29, 1996.

Respondent Raymond James' Submission Agreement signed on July 25, 1996 by Paul L. Matecki, Corporate Counsel of Raymond James & Associates, Inc. Respondent Short's Submission Agreement signed on July 24, 1996.

Claimant's Reply to Raymond James' Counterclaim filed on September 9, 1996.

HEARING INFORMATION

On January 8, 1997, a telephonic pre-hearing conference lasting one (1) session was conducted with the arbitration panel. On April 4, 1997, a telephonic pre-hearing conference lasting one (1) session was conducted with the Chairperson of the arbitration panel. On October 13 and 14, 1997 and January 7, 8 and 9, 1998, in Fort Lauderdale, Florida, hearings lasting nine (9) sessions were conducted.

CASE SUMMARY

Claimant alleged liability against Respondents based upon a grossly unsuitable recommendation on the part of Raymond James' account executive, Bill J. Short II, that Claimant purchase 1,000 shares of common stock in Unitech Industries, Inc. ("UTII") on margin, thereby placing over 100% of his net

worth at risk in one thinly capitalized and non-rated security in which Raymond James acted as a market maker. Claimant further alleged that Short violated numerous firm and industry rules in touting this stock and that Short was engaged in unauthorized contacts with UTII corporate insiders. Claimant also alleged that the producing branch manager, Stephen Trigg Kuhn ("Kuhn"), acted in conscious disregard of his duty to properly supervise Short's activities and that senior management at Raymond James had prior knowledge of Kuhn's failure to supervise and consciously failed to implement and enforce an effective system of firm-wide supervision. Claimant asserted liability against the Respondents based upon theories of common law fraud, breach of fiduciary duty and breach of contract, as well as violations of the Florida RICO statute, Florida Securities and Investor Protection Act (Chapter 517) and the federal securities laws.

Respondents denied each and every allegation made by Claimant. Respondents maintained that Claimant was intimately familiar with Unitech Industries, the security in question, and his only trade was unsolicited. Raymond James also asserted a counterclaim whereby it sought to recover an outstanding margin debit of \$3,799.01 from Claimant, stemming from his account at Raymond James. Claimant denied any liability on the counterclaim.

RELIEF REQUESTED

Claimant requested statutory compensatory damages of \$13,701.00 together with prejudgment interest, costs, attorneys' fees, punitive damages in an amount not less than \$500,000.00 and such other relief as the Panel may deem appropriate. Claimant further requested that Raymond James' counterclaim be dismissed.

Respondents requested judgment dismissing the Statement of Claim, with prejudice, and awarding Respondents their costs, including attorneys' fees, together with such other and further relief as the Panel may deem appropriate.

Respondent Raymond James further requested an award on its counterclaim of \$4,376.86, inclusive of prejudgment interest, together with attorneys' fees and costs incurred in collecting the deficit balance in Claimant's account.

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 NASD Regulation, Inc.

Pursuant to the agreement of the parties, the issues of entitlement to and amount of attorneys' fees were not submitted to the arbitration panel and will be determined by a court of competent jurisdiction in accordance with Florida law.

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. Claimant's Statement of Claim is dismissed in its entirety.
2. Respondent Raymond James' Counterclaim is dismissed in its entirety.

3. Claimant's request for punitive damages and the parties' requests for costs are denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$10,300.00 (9 sessions x \$1,000.00 per session, plus one pre-hearing conference with the Panel x \$1,000.00 and one pre-hearing conference with the Chairperson x \$300.00) as follows:

1. Claimant is hereby assessed the sum of \$5,150.00.
2. Respondents are hereby assessed, jointly and severally, the sum of \$5,150.00.
3. Respondent Raymond James is liable and shall pay to NASD Regulation, Inc. the sum of \$500.00 representing the counterclaim filing fee due and owing pursuant to Rule 10332(a) of the Code, as well as the sum of \$300.00 representing the fee for the postponement of the April 14 and 15, 1997 scheduled hearing dates.
4. NASD Regulation, Inc. shall retain the \$500.00 member surcharge previously paid by Respondent Raymond James.

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

Concurring Arbitrators' Signatures

Name

Public/Industry

_____/s/_____
Stan West
Chairperson

Public

_____/s/_____
Eli Breger

Public

_____/s/_____
Gerald H. Olin

Industry

Date of Decision: March 27, 1998