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N.A.S.D. REGULATION AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Patricia Banks

96-04672

Name of Respondents

Janney Montgomery Scott, Inc.
Mark Coleman Graves

REPRESENTATION

Claimant Patricia M. R. Banks ("Claimant") was represented by Christopher D. Warren, Esq., DeStefano & Warren, Philadelphia, PA.

Respondent Janney Montgomery Scott, Inc. ("JMS") was represented by Paul C. Madden, Esq., Saul, Ewing, Remick & Saul, Philadelphia, PA.

Respondent Mark Coleman Graves ("Graves") was represented by Brett A. Datto, Esq., Weir & Partners, Philadelphia, PA.

CASE INFORMATION

The Statement of Claim was filed on October 21, 1996.
Claimant's Submission Agreement was signed on December 4, 1996.

The Statement of Answer of Respondent JMS was filed on January 8, 1997.
JMS's Submission Agreement was signed on January 8, 1997.
The Statement of Answer of Respondent Graves was filed on February 12, 1997.
Graves did not file an executed agreement to arbitrate.

HEARING INFORMATION

Hearing Dates/Sessions: May 27, 1997/two sessions
June 27, 1997/two sessions
July 8, 1997/one session

Hearing Location: NASD Regulation District Office
Philadelphia, PA

CASE SUMMARY

Claimant alleged that Respondent Graves misappropriated monies from her account at JMS in October and December, 1994 by submitting a forged or unauthorized letter(s) of authorization in the amounts of

\$40,618.77 and \$20,600. Claimant alleged that Graves lied to her about the reasons at least some of the monies were missing from her account. Claimant alleged that when she contacted JMS about the missing funds, Graves' explained that it was simply an error by JMS and would be corrected. Claimant asserted that in September, 1996, Graves was charged with criminal mail fraud in violation of federal statutes in connection with the misappropriation of customers' funds, including Claimant's monies. Claimant alleged that Graves pleaded guilty to the charges brought against him. Claimant alleged that Graves breached fiduciary duties owed to Claimant and that JMS breached duties owed to Claimant by failing to adequately supervise and monitor the actions of Graves in the management of Claimant's account.

Respondents JMS and Graves (collectively "Respondents") admit that Graves misappropriated the alleged monies from Claimant. However, Respondents maintained that JMS has repaid all of the losses caused customers by Graves' misconduct, except for losses incurred by the Claimant, and that JMS promptly tendered to Claimant full compensation for all of her losses, together with compound interest at a market rate, in the total amount of \$77,074.00, which Claimant has refused to accept. JMS denied that it failed reasonably or diligently to supervise or monitor the activities of Graves or that it is vicariously responsible for the misconduct of Graves. JMS also maintained that it, at all times, acted reasonably and in good faith. Moreover, Respondents maintained that Claimant failed to act reasonably or diligently to mitigate her loss.

RELIEF REQUESTED

Claimant requested damages in the amount of \$61,218.77, together with pre-award interest, punitive damages and the costs and expenses of this arbitration including attorney's fees.

Respondents request that Claimant receive no more than the \$77,074.00 previously tendered to her, less forum fees and the costs of this proceeding, including attorneys' fees.

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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Respondents JMS and Graves are jointly and severally liable to and shall pay to Claimant \$77,074.00.
2. That the request for punitive damages is denied.
3. That each party shall pay its own costs and expenses, including attorneys' fees, except for Forum Fees as specified below.
4. That any and all relief not specifically addressed herein is denied.

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FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the following Forum Fees are assessed:

5 sessions x \$500.00 = \$2,500.00

Forum Fees are assessed to Claimant. Claimant is to receive credit for the \$500.00 hearing session deposit previously submitted to the NASD Regulation, leaving a net assessment for Forum Fees due from Claimant of \$2,000.00.

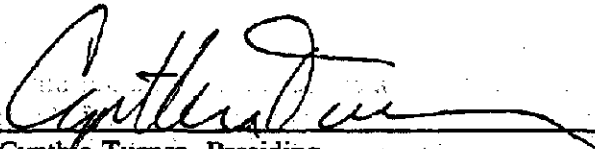
Pursuant to Rule 10333 Respondent Janney Montgomery Scott, Inc. is assessed a member surcharge of \$300.00. Respondent Janney Montgomery Scott, Inc. is to receive credit for the \$300.00 surcharge deposit previously submitted to NASD Regulation, leaving no further member surcharge assessment due.

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

DATE

CONCURRING ARBITRATORS' SIGNATURES

7/17/97



Cynthia Turner, Presiding
Public Arbitrator

OTHER ISSUES CONSIDERED & DECIDED:

John Lovering Truscott
Public Arbitrator

Dale S. Cronnell
Industry Arbitrator

Date Decision Served by NASD Regulation:

August 5, 1997

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DATE

CONCURRING ARBITRATORS' SIGNATURES

July 28, 1997

Cynthia Turner, Presiding
Public Arbitrator

John Lovering Truscott
John Lovering Truscott
Public Arbitrator

Dale S. Cronnell
Industry Arbitrator

Date Decision Served by NASD Regulation: August 5, 1997

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DATE

CONCURRING ARBITRATORS' SIGNATURES

**Cynthia Turner, Presiding
Public Arbitrator**

John Lovering Truscott
Public Arbitrator

Dale S. Cronnell
Industry Arbitrator

Date Decision Served by NASD Regulation: August 5, 1997