

AWARD
NASD REGULATION, INC.

In the Matter of the Arbitration Between

Name of Claimant

Ralph Tamm

and

Case Number

98-00359

Name of Respondents

Janney Montgomery Scott, Inc.

Rayfield J. James, Jr.

REPRESENTATION OF PARTIES

For Ralph Tamm ("Claimant") appeared Theodore H. Jobes, Esq., of the law firm Fox, Rothschild, O'Brien & Frankel, LLP, located in Philadelphia, PA.

For Janney Montgomery Scott, Inc. ("Janney") appeared Alexander D. Bono, Esq. and Timothy D. Katsiff, Esq., of the law firm Blank, Rome, Comisky & McCauley, LLP, located in Philadelphia, PA.

For Rayfield J. James, Jr. ("James") did not appear.

CASE INFORMATION

Claimant filed the Statement of Claim on January 28, 1998.

Claimant signed the Uniform Submission Agreement on November 19, 1997.

Janney filed the Statement of Answer on June 19, 1998.

Janney did not execute a Uniform Submission Agreement.

James did not file a Statement of Answer.

James did not sign a Uniform Submission Agreement.

HEARING INFORMATION

Pre-Hearing Conference:	September 29, 1998	One Session
	January 6, 1999	One Session
	January 22, 1999	One Session
Hearing Dates:	March 2, 1999	Two Sessions
	March 3, 1999	Two Sessions

March 4, 1999

Two Sessions

The hearings were held at the Doubletree Hotel in Philadelphia, Pennsylvania.

CASE SUMMARY

Claimant alleged that James fraudulently induced Claimant into purchasing four securities (TWL Hospitality Group, African Import/Export, Black Movies and Entertainment, and Silver, collectively "investments") which either did not exist or were materially different from the investments represented to Claimant by James. Specifically, Claimant alleged that James represented that the investments were sponsored and offered by Janney, that Janney fully researched the investments, that they were safe and secure and consistent with Claimant's investment objective of growth and income. Claimant alleged that James informed Claimant that the investments were secured by promissory notes, personal guarantees, security agreements and related documents. As to Janney, Claimant asserted that Janney failed to properly supervise and monitor James, its registered representative.

Claimant set forth the following claims: 1) violation of Section 10(b) of the Securities Exchange Act of 1934 ("34 Act") and Rule 10b-5; 2) violation of Section 15 of the Securities Act of 1933 and Section 20(a) of the 34 Act; 3) violation of Sections 401, 403, and 404 of the Pennsylvania Securities Act of 1972; 4) violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law; 5) fraud; 6) negligent misrepresentation; 7) breach of fiduciary duty; 8) breach of contract; 9) negligence/failure to supervise; 10) conversion; and 11) respondeat superior.

Janney denied the allegations of wrongdoing set forth in the Statement of Claim. Janney maintained that it never created, endorsed or distributed to Claimant any documentation concerning the investments. Janney alleged that if any of the investments were offered they were done by James as private securities transactions without Janney's knowledge, participation or consent. Janney maintained that no confirmations, account statements, or written communications concerning the investments were ever sent by Janney. Janney denied that James was acting within the scope of any authority, agency or employment with Janney concerning the investments. Accordingly, Janney maintained that James was acting outside the scope of his employment.

Janney set forth the following defenses: 1) that the Statement of Claim failed to state a cause upon which relief can be granted; 2) that Janney exercised the degree of care, diligence and skill that an ordinarily prudent person would exercise under similar circumstances; 3) that Janney acted in accordance with the procedures and standards generally accepted and followed in the securities business; 4) that Claimant directed, authorized and ratified all transactions in his account and is barred by the principals of waiver and ratification; that Claimant's request for punitive damages is improper; 6) that Claimant assumed the risk; 7) that Janney disputes the alleged damages; 8) that Claimant's claims are barred, in whole or in part, by the statute of limitations; 9) that Claimant's

claims are barred by contributory negligence; 10) that Claimant did not reasonably rely on any matters, statements or omissions of Janney; 11) that the damages sought are improper as a matter of law; 12) that Janney's conduct did not cause Claimant's damage; and 13) that Claimant's tort claims are barred by the economic loss doctrine.

RELIEF REQUESTED

Claimant requested:

1. Compensatory damages in the amount of \$196,000.00, plus interest.
2. Treble damages in the amount of \$600,000.00.
3. Punitive damages.
4. Attorneys fees.
5. Arbitration costs.

Janney requested:

1. That the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED & DECIDED

Upon review of the file and the representations made on behalf of the Claimant, the undersigned arbitrators have determined that James was not properly served with the Statement of Claim pursuant to Rules 10302 and 10314 of the NASD Code of Arbitration Procedure (the "Code"). Accordingly, James is dismissed without prejudice.

Janney did not file with NASD Regulation, Inc., Office of Dispute Resolution ("NASD Regulation") a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the Code and having answered the claim, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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 original remains on file with NASD Regulation.

AWARD

After considering the pleadings, the testimony, and the evidence presented at the hearing and the post-hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. That Janney shall pay to Claimant \$310,000.00, in compensatory damages including interest.
2. Respondent's Motion to Dismiss the claim under the Pennsylvania Consumer Protection Act is granted.
3. Claimant's request for attorney's fees is denied.
4. Claimant's request for punitive damages is denied.
5. Claimant's request for arbitration cost are denied, except as provided for in the Forum Fee section of the Award.
6. Any and all other relief request not specifically addressed herein are denied.

OTHER COST

Pursuant to Rule 10333 of the Code Janney was assessed a member surcharge in the amount of \$2,000.00, which has been paid.

Pursuant to Rule 10333 of the Code Janney was assessed a pre-hearing process fee in the amount of \$600.00, which has been paid.

Pursuant to Rule 10333 of the Code Janney was assessed a hearing process fee in the amount of \$3,500.00, which has not been paid.

FORUM FEES

Pursuant to Rule 10332 of the Code, the arbitrators have determined that the NASD will retain the \$250.00 filing fee deposited by the Claimant.

The arbitrators have assessed the following forum fees:

1 Pre-Hearing Conference	x	\$ 300.00	=	\$ 300.00
2 Pre-Hearing Conference	x	\$1,000.00	=	\$2,000.00

6 Hearing Sessions	x	\$1,000.00	=	<u>\$6,000.00</u>
Total Forum Fees				\$8,300.00

Claimant has been assessed \$4,150.00 representing one half of the forum fees assessed. Claimant previously deposited \$1,000.00 with NASD Regulation, therefore, Claimant shall pay to NASD Regulation, \$3,150.00 in satisfaction of forum fees.

Janney has been assessed \$4,150.00 representing one half of the forum fees assessed. Therefore, Janney shall pay to NASD Regulation, \$4,150.00 in satisfaction of outstanding forum fees.

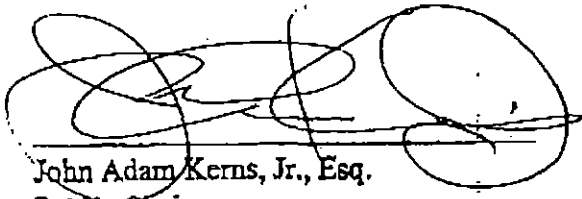
Fees are payable to NASD Regulation, Inc.

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ARBITRATION PANEL

John Adam Kerns, Jr., Esq. - Public Chairperson
Harold P. Starr, Esq. - Public Panelist
Henry Friedman - Industry Panelist

ARBITRATOR'S SIGNATURE

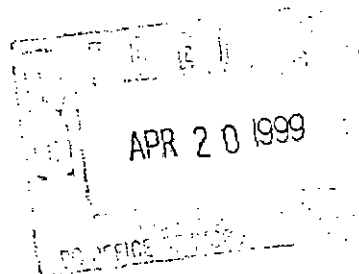


John Adam Kerns, Jr., Esq.
Public Chairperson

Date Decision Served by NASD Regulation, Inc.: _____

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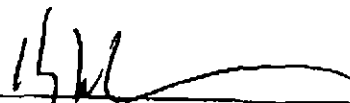
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