

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Charles F. Walker Trust
Charles F. Walker, IRA
Hester Jane Walker, IRA
Cathy Walker
Charles F. Walker, Jr. & Harriet Walker JTWROS

Case No. 99-01630

Names of Respondents

Raymond James & Associates, Inc.
Steve Florio
Daniel Stewart

REPRESENTATION OF PARTIES

For Claimants: Earle Lee Butler, Esq. of Earle Lee Butler, P.A., Ft. Lauderdale, FL. Daniel J. Morrissey, Esq., Coral Gables, FL, served as co-counsel for Claimants.

For Respondents Raymond James & Associates, Inc. and Steve Florio: George L. Guerra, Esq., Vice President, Associate Corporate Counsel, Raymond James & Associates, Inc., St. Petersburg, FL.

For Respondent Daniel Stewart in a limited capacity: George L. Guerra, Esq., Vice President, Associate Corporate Counsel, Raymond James & Associates, Inc., St. Petersburg, FL.

CASE INFORMATION

Statement of Claim filed on or about April 7, 1999.

Amended Statement of Claim filed on or about April 20, 1999.

Claimant Charles F. Walker Trust signed the Uniform Submission Agreement on January 24, 2000.

Claimant Charles F. Walker signed the Uniform Submission Agreement on March 30, 1999.

Claimant Hester Jane Walker signed the Uniform Submission Agreement on March 30, 1999.

Claimant Charles F. Walker, Jr. signed the Uniform Submission Agreement on March 30, 1999.

Claimant Harriet Walker signed the Uniform Submission Agreement on March 30, 1999.

Claimant Cathy Walker Affanato signed the Uniform Submission Agreement on March 30, 1999.

Joint Statement of Answer filed by Respondents Raymond James & Associates, Inc. and Steve Florio on or about June 22, 1999.

Respondent Florio signed the Uniform Submission Agreement on January 25, 2000.

Respondent Raymond James & Associates, Inc. signed the Uniform Submission Agreement on July 12, 1999.

Respondent Daniel Stewart did not file a Statement of Answer or an executed Uniform Submission Agreement. (see "Other Issues").

CASE SUMMARY

Claimants asserted the following: Respondents engaged in a pattern of unauthorized and unsuitable trading and churned five accounts which the Claimants had entrusted to their management. Numerous trades executed by Florio over more than three years were unauthorized. A large percentage of those trades were unsuitable for Claimants' status as retired individuals and were directly contrary to Claimants' stated investment objectives of income and long term growth.

Unless specifically admitted in its Answer, Respondents Raymond James & Associates, Inc. and Steve Florio denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant Walker was a sophisticated investor who understood the transactions in his accounts, and accepted the amount of risk he incurred; Claimants ratified all of the transactions in their accounts; Respondents Raymond James & Associates, Inc. and Steve Florio satisfied their obligations to Claimants; and, any losses in the accounts were due to normal market fluctuations and the risks inherent in investing.

RELIEF REQUESTED

Claimants requested total damages of approximately \$3,000,000.00 to \$5,000,000.00, which sum is comprised of actual damages, punitive damages, treble damages, costs, and attorneys' fees.

Respondents Raymond James & Associates, Inc. and Steve Florio requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

On the first day of the final hearing, Mr. Daniel Stewart appeared as a witness. He was identified as the supervisor of Steve Florio and Branch Manager of Respondent Raymond James & Associates, Inc. Claimants' counsel made an ore tenus motion to amend the Statement of Claim to add Mr. Daniel Stewart as a Respondent in place of the "Unknown Supervisor" described in the Uniform Submission Agreement and Statement of Claim Information Sheet filed by Claimants. The Uniform Submission Agreement and Information Sheet were filed with the Statement of Claim. Respondent Raymond James & Associates, Inc. had not disclosed the identity of the "Unknown Supervisor" to Claimants during the discovery process. Respondents' counsel, Mr. Guerra, objected to the motion. Upon the conclusion of argument by counsel, the Panel granted the motion. Mr. Guerra advised the Panel that he would represent Mr. Stewart in a limited capacity.

Immediately following the Panel's ruling which added Mr. Stewart as a Respondent, Respondents' counsel made an ore tenus motion to adjourn the final hearing to enable Mr. Stewart to file an answer and otherwise respond to the Statement of Claim. Claimants objected to the motion. Upon the conclusion of argument by counsel, the Panel denied the motion.

Respondent Stewart did not file with the NASD Regulation, Inc. Office of Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and, having appeared and testified at the hearing, is bound by the determination of the 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.

AWARD

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

Respondents are liable, jointly and severally, and shall pay to Claimant Charles F. Walker Trust the sum of \$331,951.00.

Respondents are liable, jointly and severally, and shall pay to Claimant Cathy Walker the sum of \$20,616.00.

Respondents are liable, jointly and severally, and shall pay to Claimants Charles F. Walker, Jr. and Harriet Walker the sum of \$44,941.00.

Claimants Charles F. Walker, IRA and Hester Jane Walker, IRA's claims are dismissed in their entirety.

Claimants' requests for punitive damages, treble damages, costs, and attorneys' fees are denied.

Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 600.00
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Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm, Raymond James & Associates, Inc., is a party.

Member surcharge	= \$2500.00
Pre-hearing process fee	= \$ 600.00
Hearing process fee	= \$4500.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$1200.00	= \$1200.00
Pre-hearing conference: October 5, 1999 1 session	
Eight (8) Hearing sessions x \$1200.00	= <u>\$9600.00</u>
Hearing Dates: January 24, 2000 2 sessions	
January 25, 2000 2 sessions	
January 26, 2000 2 sessions	
<u>February 7, 2000</u> <u>2 sessions</u>	
Total Forum Fees	= \$10800.00

The Panel has assessed \$5400.00 of the forum fees jointly and severally to Claimants.
The Panel has assessed \$5400.00 of the forum fees jointly and severally to Respondents.

Fee Summary

Claimants be and hereby are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
<u>Forum Fees</u>	= <u>\$5400.00</u>
Total Fees	= \$6000.00
<u>Less payments</u>	= <u>\$2400.00</u>
Balance Due NASD Regulation, Inc.	= \$3600.00

Respondents be and hereby are jointly and severally liable for:

Member Fees	= \$7600.00
<u>Forum Fees</u>	= <u>\$5400.00</u>
Total Fees	= \$13000.00
<u>Less payments</u>	= <u>\$7600.00</u>
Balance Due NASD Regulation, Inc.	= \$5400.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

/s/

Samuel Leigh, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/

Jack L. Ratzkin, Esq.
Public Arbitrator

Signature Date

/s/

Janet N. Smiles
Industry Arbitrator

Signature Date

March 21, 2000

Date of Service (For NASD office use only)

MAR. 20. 2000 4:41PM

NO. 6416 P. 6/6

NASD Regulation, Inc. Office of Dispute Resolution
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Public Arbitrator, Presiding Chair

3/21/00
Signature Date

Jack L. Ratzkin, Esq.
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