
Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Kathryn L. Honea

Case Number: 06-03491

Names of the Respondents

Raymond James Financial Services, Inc.

Bernard Ross Michaud

Hearing Site: Birmingham, Alabama

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Kathryn L. Honea, hereinafter referred to as "Claimant": J. Timothy Francis, Esq., James L. North & Associates, Birmingham, Alabama.

For Raymond James Financial Services, Inc. ("RJFS") and Bernard Ross Michaud ("Michaud"), hereinafter collectively referred to as "Respondents": Robert M. Rudnicki, Esq., Vice President and Director of Litigation, Raymond James Financial Services, Inc., St. Petersburg, Florida.

CASE INFORMATION

Statement of Claim filed on or about: July, 24, 2006.

Claimant signed the Uniform Submission Agreement: March 15, 2006.

Statement of Answer and Motion to Dismiss Based on Statute of Limitations Grounds filed by Respondent RJFS on or about: September 19, 2006.

Respondent RJFS signed the Uniform Submission Agreement: August 10, 2006.

Statement of Answer and Joinder in Motion to Dismiss Based on Statute of Limitations Grounds filed by Respondent Michaud on or about: November 17, 2006.

Objection to Respondents' [Joint] Motion to Dismiss filed by Claimant on or about: January 19, 2007.

Reply to Claimant's Objection to Respondents' [Joint] Motion to Dismiss filed by Respondents on or about: January 26, 2007.

Respondent Michaud did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: 1) violation of § 8-6-19 of the Alabama Securities Act; 2) statutory and common law fraud; 3) breach of fiduciary duty; 4) breach of contract; 5) negligence; 6) fraud; and, 7) wantonness. The causes of action relate to the purchase and sale of various securities in Claimant's account, including, but not

limited to: Applied Micro Circuits; Juniper Networks, Inc.; Nokia Corp.; Nortel Networks Corp.; Oracle Corporation; Siebel Systems Inc.; Sun Microsystems Inc.; Lucent Technologies; JDS Uniphase; Cisco Systems; and, Motorola Inc.

Unless specifically admitted in their respective Answers, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested: 1) compensatory damages in the amount of approximately \$1,200,000.00; 2) punitive damages in the amount of \$1,200,000.00; 3) interest at the rate of 6% per annum pursuant to Ala. Code § 8-6-19; and, 4) attorneys' fees pursuant to Ala. Code § 8-6-19.

Respondents requested: 1) that the Statement of Claim be denied in all aspects; 2) that all costs and fees be assessed against Claimant; and, 3) such other relief as deemed just and proper. Additionally in Respondents' Pre-Hearing Brief, Respondent Michaud requested expungement of all references to this matter from his registration records maintained by the Central Registration Depository ("CRD").

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Michaud did not file with FINRA Dispute Resolution a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the Code of Arbitration Procedure ("the Code") and, having answered the claim and appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

Respondents filed a [Joint] Motion to Dismiss the Statement of Claim on the basis that the claims contained therein are barred by the applicable statutes of limitations. In response, Claimant asserted, among other things, that Claimant is entitled to a hearing on the merits as the Panel lacks authority to dismiss the case prior to a hearing, and that Claimant's breach of contract claims are timely on their face. The Panel heard oral argument from the parties during a telephonic pre-hearing conference conducted on February 13, 2007, and thereafter issued an Order dated February 22, 2007, which granted Respondents' Motion to Dismiss with respect to all claims with the exception of Claimant's claim for breach of contract. The Order stated that the matter would proceed to hearing solely on the breach of contract claim.

At the evidentiary hearing and close of Claimant's case-in- chief, Respondents moved for a directed verdict which the Panel denied.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten Award may be entered.

AWARD

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

Claimant's claims for violation of § 8-6-19 of the Alabama Securities Act; statutory and common law fraud; breach of fiduciary duty; negligence; fraud; and, wantonness are dismissed with prejudice.

Claimant's claim for breach of contract is denied. The Panel makes an express finding that Respondent Michaud did not sufficiently know his client nor make sufficient inquiry to attempt to know his client, her holdings, and/or her investment experience. These failures contributed to losses in Claimant's account. However, Claimant's claims are all barred by the applicable statutes of limitations.

Respondent Michaud's request for expungement is denied.

Any and all claims for relief not specifically addressed herein, including Claimant's requests for punitive damages and attorneys' fees, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$ 500.00
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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 that employed the associated person at the time of the events giving rise to the dispute. Respondent RJFS is a party to this dispute and is a member firm. Accordingly, the following fees were assessed:

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

The Panel has assessed the total forum fees of \$12,200.00 to Respondents, jointly and severally.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during this proceeding.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
<u>Adjournment Fees</u>	<u>= \$ 1,200.00</u>
Total Fees	= \$ 1,700.00
<u>Less payments</u>	<u>= \$ 1,700.00</u>
Balance Due FINRA Dispute Resolution	= \$ 0.00

Respondent RJFS is solely liable for:

<u>Member Fees</u>	<u>= \$ 8,550.00</u>
Total Fees	= \$ 8,550.00
<u>Less payments</u>	<u>= \$ 8,550.00</u>
Balance Due FINRA Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	<u>= \$12,200.00</u>
Total Fees	= \$12,200.00
<u>Less payments</u>	<u>= \$ 0.00</u>
Balance Due FINRA Dispute Resolution	= \$12,200.00

All balances are payable to FINRA Dispute Resolution and are due upon receipt .

ARBITRATION PANEL

<i>Victor L. Hayslip, J.D.</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Ronald Wilkins</i>	-	<i>Public Arbitrator</i>
<i>Suzette Merriam Foster</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

/s/

1/3/08

Victor L. Hayslip, J.D.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

1/2/08

Ronald Wilkins
Public Arbitrator

Signature Date

/s/

1/2/08

Suzette Merriam Foster
Non-Public Arbitrator


Signature Date

January 3, 2008

Date of Service (For FINRA Dispute Resolution office use only)

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Victor L. Hayella, J.D.
Public Arbitrator, Presiding Chairperson

1/3/08
Signature Date

Ronald Wilkins
Public Arbitrator

Signature Date

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