

Recent Arbitration Awards

**Charles B. Lee & Denise P. Lee vs.
Raymond James Financial Services, Inc.,
Moseley and Associates, LLP, and John
M. Moseley;**

FINRA Case No. 06-04074

This case involves an early retiree taking distributions under § 72(t). As a retiree, he desired and needed income. However, because he was under age 59 ½, he received distributions under § 72(t) of the Internal Revenue Code. Respondent Moseley had discretionary authority over the account and charged Claimant a management fee. Ultimately, Respondent purchased few, if any, income producing investments and relied on capital gains from the purchase and sale of stocks to meet Mr. Lee's "income" needs.

Claimants asserted the following claims: Unsuitability, misrepresentations, omissions, breach of fiduciary duty, failure to supervise.

Respondents denied liability and sought expungement and costs assessed against Claimants.

The claim specifically requested compensatory damages of \$640,000.00; however, the account actually earned a net profit of \$75,000.00 over its life.

Award: Compensatory damages of \$225,000, plus reimbursement of filing fees (\$375.00).

Claimants' Counsel: Richard A. Lewins, Esq., Burg Simpson Eldredge Hersch & Jardine, P.C., Dallas, Texas.

Respondents' Counsel: Erin Linehan, Esq., Raymond James Financial Services, Inc., St. Petersburg, Florida.

Claimants' Expert: Jerrod Summers

Respondents' Expert: Ken Collier

Arbitrators: Phillip Lee Scheidt, Ph.D (Chair), James Douglas Haigh (Public), and W. Donald Parr (Non-Public)