
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Victor R. Meljac
Helen T. Meljac

Case Number: 02-02550

Name of the Respondent

Andrew P. Devito

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Associated Person.

REPRESENTATION OF PARTIES

For Victor R. Meljac ("VM") and Helen T. Meljac ("HM"), hereinafter collectively referred to as "Claimants":
Richard V. Meljac, Personal Representative, Tampa, Florida.

For Andrew P. Devito ("Devito"), hereinafter referred to as "Respondent": Stephen A. Mendelsohn, Esq.,
Greenberg Traurig, P.A., Boca Raton, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 1, 2002.

Claimants signed the Uniform Submission Agreement on or about: May 1, 2002.

Statement of Answer filed by Respondent on or about: July 18, 2002.

Respondent did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; misrepresentations/non-disclosures; unauthorized trading; and suitability. The causes of action relate to the purchase in Claimants' accounts of the Golden American Life – Deferred Variable Annuity.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$60,178.98, punitive damages in the amount of \$25,000.00, and unspecified amounts of forum fees, witness and production fees, and other case-related costs.

Respondent requested that the matter be dismissed and all relief requested by Claimants be denied.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent did not file with NASD 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 answered the claim, appeared and testified at the hearing, is bound by the determination of the Panel on all issues submitted.

The parties 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 (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is liable on the claim of suitability and shall pay compensatory damages to Claimants in the amount of \$15,000.00. Damages were assessed after considering the total amount of Claimants' pecuniary loss, Claimants' failure to mitigate damages, and the level of fault of Respondent.

Any and all claims for relief not specifically addressed herein, including Claimants' request for punitive damages, are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee	= \$ 225.00
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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, Citigroup Global Markets, Inc. ("CGM"), employed the associated person at the time of the events giving rise to the dispute. Accordingly, the following fees are assessed to CGM:

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,700.00
Total Member Fees	= \$3,550.00

Adjournment Fees

Adjournment fees were not assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the panel.

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A 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 the Panel @ \$750.00/session	= \$ 750.00
Pre-hearing conference: November 1, 2002 1 session	
Four (4) Hearing sessions @ \$750.00/session	= \$3,000.00
Hearing Dates: January 12, 2004 2 sessions	
January 13, 2004 2 sessions	
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Total Forum Fees	= \$3,750.00

The Panel has assessed the total forum fees of \$3,750.00 Respondent.

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.

There were no administrative costs incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
Total Fees	= \$ 225.00
<u>Less Payments</u>	= \$ 225.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

<u>Forum Fees</u>	= \$ 3,750.00
Total Fees	= \$ 3,750.00
<u>Less Payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,750.00

CGM is solely liable for:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less Payments	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Mauricio Arcadier, JD	-	Public Arbitrator, Presiding Chairperson
Peter A. Cartwright, Esq.	-	Public Arbitrator
Dale Berman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Mauricio Arcadier, JD
Public Arbitrator, Presiding Chairperson

January 24, 2004
Signature Date

/s/
Peter A. Cartwright, Esq.
Public Arbitrator

January 26, 2004
Signature Date

/s/
Dale Berman
Non-Public Arbitrator

January 22, 2004
Signature Date

January 26, 2004
Date of Service (For NASD Dispute Resolution office use only)

CGM is solely liable for:


<u>Member Fees</u>	= \$ 3,550.00
<u>Total Fees</u>	= \$ 3,550.00
<u>Less Payments</u>	= \$ 3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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Peter A. Cartwright, Esq.	-	Public Arbitrator
Dale Berman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Mauricio Arcadier, JD
Public Arbitrator, Presiding Chairperson

1/24/04
Signature Date

Peter A. Cartwright, Esq.
Public Arbitrator

Signature Date

Dale Berman
Non-Public Arbitrator

Signature Date

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

CGM is solely liable for:

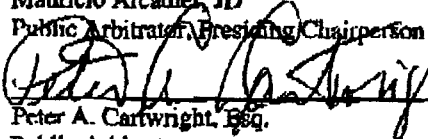
<u>Member Fees</u>	= \$ 3,550.00
<u>Total Fees</u>	= \$ 3,550.00
<u>Less Payments</u>	= \$ 3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

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Peter A. Cartwright, Esq.	-	Public Arbitrator
Dale Berman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Mauricio Arcadier, JD
Public Arbitrator, Presiding Chairperson


Peter A. Cartwright, Esq.
Public Arbitrator

Signature Date

1-26-04

Signature Date

Dale Berman
Non-Public Arbitrator

Signature Date

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

CGM is solely liable for:

<u>Member Fees</u>	= \$ 3,550.00
<u>Total Fees</u>	= \$ 3,550.00
<u>Less Payments</u>	= \$ 3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

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Peter A. Cartwright, Esq.	-	Public Arbitrator
Dale Berman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Mauricio Arcadier, JD
Public Arbitrator, Presiding Chairperson

Signature Date

Peter A. Cartwright, Esq.
Public Arbitrator

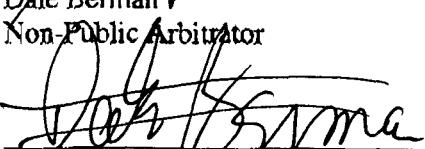
Signature Date



Dale Berman
Non-Public Arbitrator

1/22/04

Signature Date



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