

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Kent Bradford Ellis (Claimant) v. TIAA-CREF Individual & Institutional Services, Inc.
(Respondent)

Case Number: 02-06346

Hearing Site: New York, New York

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

Claimant Kent Bradford Ellis ("Ellis") hereinafter referred to as "Claimant" appeared *pro se*.

Respondent TIAA-CREF Individual & Institutional Services, Inc. ("TIAA-CREF") hereinafter referred to as "Respondent": David A. Stein, Esq., Luboja & Thau, LLP, New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: October 22, 2002.

Claimant signed the Uniform Submission Agreement: October 21, 2002.

Statement of Answer filed by Respondent on or about: January 30, 2003.

Respondent signed the Uniform Submission Agreement: December 4, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation; errors/charges; breach of fiduciary duty; and negligence. Claimant's claim involved variable annuities.

Unless specifically admitted in its Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$150,000.00; punitive damages in the amount of \$300,000.00; costs; attorneys' fees; and any other reasonable expenses incurred by him in securing a resolution to this matter.

Respondent requested that the Statement of Claim be dismissed in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

At the hearing, Respondent made two Motions to Dismiss. The Panel reserved its decision regarding the motions.

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, and the testimony and evidence presented at the hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are hereby denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is 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	= \$300.00
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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. Accordingly, TIAA-CREF Individual & Institutional Services, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Forum Fees and Assessments

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

Two (2) Pre-hearing sessions with Panel @ \$1,125.00	= \$2,250.00
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Pre-hearing conferences: September 16, 2003 1 session
 October 23, 2003 1 session

Four (4) Hearing sessions @ \$1,125.00 = \$4,500.00

Hearing Dates: January 14, 2004 2 sessions
 January 15, 2004 2 sessions

Total Forum Fees = \$6,750.00

1. The Panel has assessed \$4,050.00 of the forum fees against Claimant.
2. The Panel has assessed \$2,700.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	<u>= \$4,050.00</u>
Total Fees	= \$4,350.00
<u>Less payments</u>	<u>= \$1,425.00</u>
Balance Due NASD Dispute Resolution	= \$2,925.00

2. Respondent is solely liable for:

Member Fees	= \$5,200.00
<u>Forum Fees</u>	<u>= \$2,700.00</u>
Total Fees	= \$7,900.00
<u>Less payments</u>	<u>= \$5,200.00</u>
Balance Due NASD Dispute Resolution	= \$2,700.00

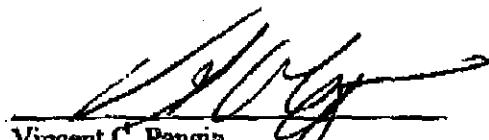
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

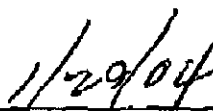
Vincent C. Pangia	-	Public Arbitrator, Presiding Chair
Martin Jay Siegel, Esq.	-	Public Arbitrator
Sheldon Curtis, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.



Vincent C. Pangia
Public Arbitrator, Presiding Chairperson



Signature Date

Martin Jay Siegel, Esq.
Public Arbitrator

Signature Date

Sheldon Curtis, Esq.
Non-Public Arbitrator

Signature Date

January 23, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

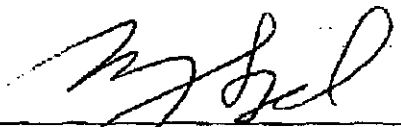
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Concurring Arbitrators' Signatures

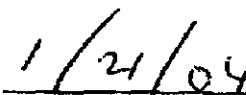
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Vincent C. Pangia
Public Arbitrator, Presiding Chairperson

Signature Date



Martin Jay Siegel, Esq.
Public Arbitrator



Signature Date

Sheldon Curtis, Esq.
Non-Public Arbitrator

Signature Date

January 23, 2004

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ARBITRATION PANEL

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Martin Jay Siegel, Esq.	-	Public Arbitrator
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Public Arbitrator, Presiding Chairperson

Signature Date

Martin Jay Siegel, Esq.
Public Arbitrator

Signature Date



Sheldon Curtis, Esq.
Non-Public Arbitrator

Signature Date

1.20-04

January 23, 2004

Date of Service (For NASD Dispute Resolution use only)