
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Burton W. Carlson

Case Number: 03-00089

Names of the Respondents

Raymond James & Associates, Inc.

Robert A. Berman

Jonathan D. Wax

Hearing Site: Tampa, Florida

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

REPRESENTATION OF PARTIES

For Burton W. Carlson, hereinafter referred to as "Claimant": Laurence S. Schultz, Esq., Driggers, Schultz & Herbst, P.C., Troy, Michigan.

For Respondents Raymond James & Associates, Inc. ("RJA") and Robert A. Berman ("Berman"): Todd A. Zuckerbrod, Esq., Greenberg Traurig, P.A., West Palm Beach, Florida.

For Respondent Jonathan D. Wax ("Wax"): Nancy H. Henry, Esq., Carlton Fields, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: December 24, 2002.

Claimant signed the Uniform Submission Agreement: December 23, 2002.

Statement of Answer filed by Respondents on or about: March 21, 2003.

Respondent RJA did not file an executed Uniform Submission Agreement.

Respondent Berman signed the Uniform Submission Agreement: January 23, 2003.

Respondent Wax signed the Uniform Submission Agreement: February 4, 2003.

Request to Amend Statement of Claim filed by Claimant on or about: August 7, 2003.

Motion to Preclude Claimant's Amended Statement of Claim filed by Respondents on or about: August 20, 2003.

First Amended Statement of Claim filed by Claimant on or about: September 18, 2003.

Response to Claimant's Amended Statement of Claim filed by Respondents on or about: October 2, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; misrepresentation, omissions and deceptive devices; breach of contract; violation of NASD Rules, including Sections 2310, 3010 and 2120 of the NASD Rules of Fair Practice and IM 2310-2 Fair Dealing With Customers; and, respondeat superior. The causes of action relate to the purchase of a Golden American variable annuity in Claimant's account.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$1,500,000.00, plus a refund of commissions, an unspecified amount of punitive damages, interest, costs, a referral to court for attorneys' fees pursuant to Section 517.211(6) of the Florida Statutes, and such other relief as deemed just by the Panel.

Respondents requested that Claimant's claims be denied in their entirety and dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent RJA 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, is bound by the determination of the Panel on all issues submitted.

On or about September 16, 2003, the Panel issued an Order granting Claimant's Motion to Amend.

On or about January 6, 2004, Claimant dismissed Respondent Wax from this matter, without prejudice.

On or about January 9, 2004, Claimant withdrew all claims for relief pursuant to Section 517 of the Florida Securities and Investor Protection Act.

On or about November 24, 2004, Claimant and Respondents RJA and Berman filed with NASD Dispute Resolution a notice of settlement.

On or about December 2, 2004, Claimant and Respondents RJA and Berman filed with NASD Dispute Resolution a Motion for Dismissal of all Claims and for the Entry of a Stipulated Award Directing Expungement. On or about January 25, 2005, the Panel issued an Order granting the motion.

On or about February 9, 2005, Claimant dismissed Respondent Wax from this matter, with prejudice.

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

AWARD

After considering the pleadings and the Motion for Dismissal of all Claims and for the Entry of a Stipulated Award Directing Expungement, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

All claims asserted against Respondents RJA, Berman and Wax are dismissed, with prejudice.

The Panel recommends the expungement of all references to the above captioned arbitration from Respondent Berman's public and non-public registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Berman must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

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	= \$ 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. Accordingly, Respondent RJA is a member firm and a party:

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

Adjournment fees were not assessed in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

The Panel has assessed a three-day cancellation fee of \$300.00 as follows:

\$150.00 to Claimant

\$150.00 to Respondents, jointly and severally

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.

No injunctive relief fees were incurred 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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: July 1, 2003 1 session	
One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: December 4, 2003 1 session	
<hr/> Total Forum Fees	<hr/> = \$ 1,650.00

Pursuant to the agreement of the parties, the Panel has the total forum fees of \$1,650.00 to Respondent RJA.

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 in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 500.00
<u>Three-day Cancellation Fee</u>	<u>= \$ 150.00</u>
Total Fees	= \$ 650.00
<u>Less payments</u>	<u>= \$ 650.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent RJA is solely liable for:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	<u>= \$ 1,650.00</u>
Total Fees	= \$10,200.00
<u>Less payments</u>	<u>= \$ 8,550.00</u>
Balance Due NASD Dispute Resolution	= \$ 1,650.00

Respondents RJA and Berman are jointly and severally liable for:

NASD Dispute Resolution

Arbitration No. 03-00089

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<u>Three-day Cancellation Fee</u>	= \$ 150.00
<u>Total Fees</u>	= \$ 150.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 150.00

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

ARBITRATION PANEL

John P. Cullem, Esq.	-	Public Arbitrator, Presiding Chairperson
William J. Capito, Esq.	-	Public Arbitrator
Tama Traberman	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
John P. Cullem, Esq.
Public Arbitrator, Presiding Chairperson

March 11, 2005
Signature Date

/s/
Tama Traberman
Non-Public Arbitrator

March 6, 2005
Signature Date

Dissenting Arbitrator's Signature

/s/
William J. Capito, Esq.
Public Arbitrator

March 21, 2005
Signature Date

March 21, 2005
Date of Service (For NASD Dispute Resolution office use only)

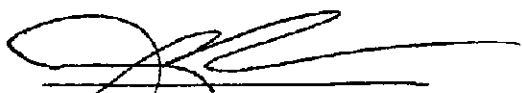
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John P. Cullem, Esq.
Public Arbitrator, Presiding Chairperson

3/11/2005

Signature Date

Tama Traberman
Non-Public Arbitrator

Signature Date

Dissenting Arbitrator's Signature

William J. Capito, Esq.
Public Arbitrator

Signature Date

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Signature Date



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Non-Public Arbitrator

3/6/05

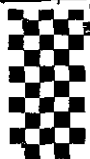
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Concurring Arbitrators' Signatures

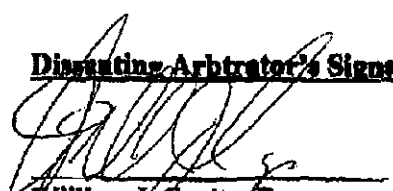
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Dissenting Arbitrator's Signature



William J. Capito, Esq.
Public Arbitrator

March 21, 2005

Signature Date

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