
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Raymond James Burleigh IRA

Case Number: 03-00405

Names of the Respondents

Earl Jude Delahoussaye

Jon Andrew Delahoussaye

New York Life Insurance Company (New York Life Securities, Inc.)

Hearing Site: New Orleans, Louisiana

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

REPRESENTATION OF PARTIES

For Raymond James Burleigh IRA ("Burleigh"), hereinafter referred to as "Claimant": James F. Willeford, Esq., James F. Willeford, PLC, New Orleans, Louisiana.

For Respondents Earl Jude Delahoussaye ("EJD") and Jon Andrew Delahoussaye ("JAD"): Michael J. Juneau, Esq., The Juneau Firm, Lafayette, Louisiana.

For Respondent New York Life Insurance Company (New York Life Securities, Inc.) ("NYL"): Maura Pelleteri, Esq., Krebs, Farley & Pelleteri, LLC, New Orleans, Louisiana.

CASE INFORMATION

Statement of Claim filed on or about: January 5, 2003.

Claimant signed the Uniform Submission Agreement: January 13, 2003.

Statement of Answer filed by Respondents EJD and JAD on or about: March 5, 2003.

Statement of Answer filed by Respondent NYL on or about: March 18, 2003.

Respondents EJD and JAD signed the Uniform Submission Agreements: February 20, 2003.

Respondent NYL signed the Uniform Submission Agreement: February 26, 2003.

CASE SUMMARY

Claimant asserted the following causes of action against Respondents: negligence; failure to monitor and properly manage Claimant's account; excessive and inappropriate trading; unsuitability; misrepresentations and omissions; failure to advise Claimant; wrongful taking of commissions; breach of contract; breach of fiduciary duty; and violations of Section 712 of the Louisiana Securities Act, federal securities laws, New York Stock Exchange and NASD rules and regulations. Claimant further asserted the following causes of action against Respondent NYL: failure to supervise the activities of Respondents EJD and JAD, and respondeat superior. The causes of action relate to the conversion of the equities in Claimant's account to Respondent NYL's Life-Stages Variable Annuity, with the investment portion of the annuity invested in various funds, including the

following: MainStay VP Capital Appreciation Fund; MainStay VP Total Return Fund; MainStay VP Growth Equity Fund; MainStay VP Indexed Equity Fund; Fidelity VIP II Contrafund; MainStay VP Bond Fund; MainStay VP Cash Management Fund; MainStay VP Dreyfus Large Company Value Fund; MainStay VP Government Fund; MainStay VP High Yield Corporate Bond Fund; MainStay VP International Equity Fund; MainStay VP Mid-Cap Growth Fund; MainStay VP Value Fund; Alger American Small Capitalization Fund; Fidelity VIP Equity-Income Fund; Morgan Stanley UIF Emerging Markets Equity Fund; and T. Rowe Price Equity Income Fund.

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

RELIEF REQUESTED

Claimant requested the following relief:

1. compensatory damages in an amount exceeding \$142,916.86, representing lost market value exceeding \$53,000.00, IRS penalties of \$18,549.00, penalty charges of \$25,867.86, and wrongful commissions estimated at \$45,500.00;
2. compensation in an unspecified amount for personal injuries resulting from extreme emotional distress due to the willful and wanton conduct of Respondents;
3. interest from the date of the investment until the date of repayment;
4. all costs of the arbitration, including filing and hearing fees, expert witness fees and reasonable attorneys' fees as provided under the Louisiana Securities Act, federal securities law, and the rules and regulations of the New York Stock Exchange and NASD;
5. monetary relief from the Panel as a matter of equity pursuant to Rule 45(a) of the Commercial Arbitration Rules of the American Arbitration Association, providing "the arbiter may grant any remedy or relief the arbiter deems just and equitable"; and
6. punitive damages in the amount of three times the actual amount of monetary damages.

Respondents EJD and JAD requested that the claim be dismissed in its entirety, and that they be awarded reasonable attorney's fees in defense of the claim and the cost of the arbitration proceeding.

Respondent NYL requested that Claimant take nothing by way of the Statement of Claim, that the Statement of Claim be dismissed with prejudice, that Respondent NYL be awarded its costs of suit herein, and that the Panel award to Respondent NYL such other and further relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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:

Respondents are jointly and severally liable and shall pay to Claimant compensatory damages in the amount of \$50,000.00, plus interest at the Louisiana statutory rate from the date of service of the Award until the date of payment of the Award.

Respondents are jointly and severally liable and shall pay to Claimant the sum of \$375.00, representing reimbursement of the claim-filing fee previously paid by Claimant to NASD Dispute Resolution.

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

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$375.00
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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. Accordingly,

Respondent NYL is a member firm and a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$4,000.00</u>
Total Member Fees	= \$7,000.00

Adjournment Fees

No adjournments were requested 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 @ \$1,200.00/session	= \$1,200.00
Pre-hearing conference: September 3, 2003 1 session	

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: September 29, 2003 1 session	

Six (6) Hearing sessions @ \$1,200.00/session	= \$7,200.00
Hearing Dates: January 5, 2004 2 sessions	
January 6, 2004 2 sessions	
January 7, 2004 2 sessions	

Total Forum Fees	= \$8,850.00
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The Panel has assessed the total forum fees of \$8,850.00 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.

There were no administrative costs incurred in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less Payments	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent NYL is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less Payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

Forum Fees	= \$8,850.00
Total Fees	= \$8,850.00

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<u>Less Payments</u>	= \$ 750.00
Balance Due NASD Dispute Resolution	= \$8,100.00

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

ARBITRATION PANEL

John Whitney, Esq.	-	Public Arbitrator, Presiding Chairperson
Herman Brasseaux	-	Public Arbitrator
Robert E. Graves, J.D.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
John Whitney, Esq.
Public Arbitrator, Presiding Chairperson

January 22, 2004
Signature Date

/s/
Herman Brasseaux
Public Arbitrator

January 23, 2004
Signature Date

/s/
Robert E. Graves, J.D.
Non-Public Arbitrator

January 23, 2004
Signature Date

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

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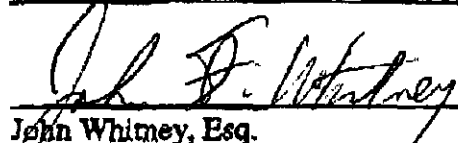
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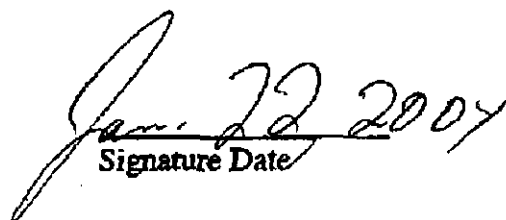
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John Whitney, Esq.
Public Arbitrator, Presiding Chairperson



Signature Date

Herman Brasseaux
Public Arbitrator

Signature Date

Robert E. Graves, J.D.
Non-Public Arbitrator

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Concurring Arbitrators' Signatures

John Whitney, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Herman Brasseaux
Public Arbitrator

1-23-04

Signature Date

Robert E. Graves, J.D.
Non-Public Arbitrator

Signature Date

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NASD Dispute Resolution
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Award Page 5

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Herman Brasseaux	-	Public Arbitrator
Robert E. Graves, J.D.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

John Whitney, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Herman Brasseaux
Public Arbitrator

Signature Date


Robert E. Graves, J.D.
Non-Public Arbitrator

1-23-04
Signature Date

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

Post-It® Fax Note	7671	Date <u>1-23-04</u>	# of pages <u>1</u>
To <u>Lisa Lashes</u>	From <u>Robert Graves</u>		
Co./Dept. <u>Beta Station</u>	Co.		
Phone # <u>447-4938</u>	Phone #		
Fax # <u>561-321-4306</u>	Fax #		