

NASD REGULATION

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

James P. Reilly (Claimant) v. Thomas George Damasco, Jr. (Respondent)

Case Number: 03-01754

Hearing Site: Cleveland, Ohio

Nature of the Dispute: Customer vs. Associated Person.

REPRESENTATION OF PARTIES

Claimant James P. Reilly ("Reilly") hereinafter referred to as "Claimant": James E. Morgan, Esq., James E. Morgan Attorney at Law, Holland, OH.

Respondent Thomas Damasco ("Damasco") hereinafter referred to as "Respondent": Robert N. Rapp, Esq., Calfee, Halter & Griswold, LLP, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: March 6, 2003.

Reply to Respondent's Motion for Summary Dismissal filed by Claimant on or about: December 16, 2003.

Claimant signed the Uniform Submission Agreement: March 5, 2003.

Statement of Answer and Motion for Summary Dismissal filed by Respondent on or about: October 15, 2003.

Respondent signed the Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation regarding the sale of a life insurance policy.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$50,000.00; punitive damages in the amount of \$50,000.00; attorneys' fees; and forum fees.

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Respondant requested:

- (1) Upon consideration and application of controlling rules and statutes of limitation, that Reilly's claim be summarily dismissed in its entirety;
- (2) Dismissing Reilly's claims on all other grounds;
- (3) Assessing all forum costs and fees against Reilly;
- (4) For further affirmative relief to Damasco, including a finding that the fraud and deception allegations made against him are defamatory and should be expunged from his securities industry employment records; and
- (5) For an award of attorneys' fees and costs pursuant to *Ohio Revised Code §2323.51*.

OTHER ISSUES CONSIDERED AND DECIDED

After Claimant presented his case, Respondent made a motion for summary dismissal of time barred claims. After due consideration, the Panel unanimously granted Respondent's motion to dismiss.

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 dismissed 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

= \$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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Lehman Brothers, Inc. is the Respondent's firm.

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

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 arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: November 6, 2003 1 session	

Two (2) Hearing sessions @ \$750.00	= \$1,500.00
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Hearing Date: March 1, 2004 2 sessions	
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Total Forum Fees	= \$2,250.00
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1. The Panel has assessed \$1,125.00 of the forum fees against Claimant.
2. The Panel has assessed \$1,125.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$1,125.00
Total Fees	= \$1,350.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 375.00

2. Lehman Brothers, Inc. is solely liable for:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$1,850.00
Balance Due NASD Dispute Resolution	= \$1,700.00

3. Respondent is solely liable for:

Forum Fees	= \$1,125.00
Total Fees	= \$1,125.00
Less payments	= \$ 0.00

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Balance Due NASD Dispute Resolution

= \$1,125.00

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

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ARBITRATION PANEL

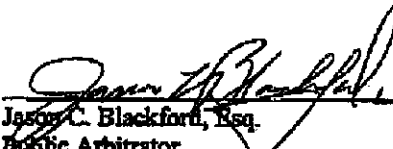
Marc A. Winters	-	Public Arbitrator, Presiding Chair
Jason C. Blackford, Esq.	-	Public Arbitrator
Terrence Patrick McHugh	-	Non-Public Arbitrator

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.

Marc A. Winters
Public Arbitrator, Presiding Chairperson

Signature Date



Jason C. Blackford, Esq.
Public Arbitrator

Signature Date

Terrence Patrick McHugh
Non-Public Arbitrator

Signature Date

March 8, 2004
Date of Service (For NASD Dispute Resolution use only)

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ARBITRATION PANEL

Marc A. Winters	-	Public Arbitrator, Presiding Chair
Jason C. Blackford, Esq.	-	Public Arbitrator
Terrence Patrick McHugh	-	Non-Public Arbitrator

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Marc A. Winters
Marc A. Winters
Public Arbitrator, Presiding Chairperson

3-5-04
Signature Date

Jason C. Blackford, Esq.
Public Arbitrator

Signature Date

Terrence Patrick McHugh
Non-Public Arbitrator

Signature Date

March 8, 2004
Date of Service (For NASD Dispute Resolution use only)