

**Award  
NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimant  
Carolyn C. Tyson

Case Number: 03-03252

Names of the Respondents  
Triad Advisors, Inc.  
Richard A. Corley

Hearing Site: Raleigh, NC

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

**REPRESENTATION OF PARTIES**

Claimant, Carolyn C. Tyson, hereinafter referred to as "Claimant", was represented by Andrew O. Whiteman, Esq., Hartzell & Whiteman, LLP, Raleigh, North Carolina.

Respondents, Triad Advisors, Inc. ("Triad Advisors") and Richard A. Corley ("Corley"), hereinafter collectively referred to as "Respondents", were represented by Jenna F. Butler, Esq., Ward & Smith, P.A., Wilmington, North Carolina.

**CASE INFORMATION**

Statement of Claim filed on May 2, 2003.

Claimant signed the Uniform Submission Agreement on April 25, 2003.

Statement of Answer filed by Respondents on July 3, 2003.

Amended Statement of Answer filed by Respondents on October 1, 2003.

A representative of Respondent Triad Advisors signed the Uniform Submission Agreement on May 3, 2003.

Respondent Corley signed the Uniform Submission Agreement on May 23, 2003.

**CASE SUMMARY**

Claimant asserted the following causes of action, among others: breach of fiduciary duty, violation of N.C.G.S. 78A-56(a), negligence, negligent misrepresentation, and breach of contract. The causes of action relate to the purchase and sale of Pacific Life variable annuity funds and Putnam equity mutual funds.

Unless specifically admitted in their Statement of Answer and Amended Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: Claimant's claims are barred by the doctrines of waiver, laches, estoppel, and ratification; assumption of the risk; contributory negligence; failure to mitigate damages; and Claimant's claims are barred by the statute of limitations.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$ 168,700.00
Interest	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents requested that the Statement of Claim be dismissed in its entirety and that all costs of the arbitration be assessed to Claimant.

### **OTHER ISSUES CONSIDERED AND DECIDED**

At the hearing on the merits, Respondents made an oral Motion to Dismiss. The Arbitration Panel (the "Panel") granted the motion as to Claimant's N.C.G.S § 78A-56 claim and denied the motion as to all other claims.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are denied in their entirety;
2. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and,
3. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

### **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

#### **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 Triad Advisors 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 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 Panel @ \$ 1,125.00	= \$ 1,125.00
Pre-hearing conference: December 18, 2003 1 session	
Four (4) Hearing sessions @ \$ 1,125.00	= \$ 4,500.00
Hearing Dates: August 31, 2004 2 sessions	
September 1, 2004 2 sessions	
Total Forum Fees	= \$ 5,625.00

1. The Panel has assessed \$ 2,812.50 of the forum fees to Claimant.
2. The Panel has assessed \$ 2,812.50 of the forum fees jointly and severally to Respondents.

**Fee Summary**

1. Claimant is assessed and shall pay:	
Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 3,112.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,687.50
2. Respondent Triad Advisors is assessed and shall pay:	
Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00
3. Respondents are jointly and severally assessed and shall pay:	
Forum Fees	= \$ 2,812.50
Total Fees	= \$ 2,812.50
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 2,812.50

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

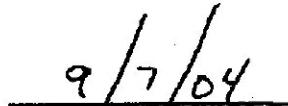
**ARBITRATION PANEL**

Michael Lloyd Weisel, Esq.	-	Non-Public Arbitrator, Presiding Chairperson
Thomas W. Steed, Jr., Esq.	-	Public Arbitrator, Panelist
Michael E. Weddington, Esq.	-	Public Arbitrator, Panelist

**Concurring Arbitrators' Signatures**



Michael Lloyd Weisel, Esq.  
Non-Public Arbitrator, Presiding Chairperson


  
Signature Date

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Thomas W. Steed, Jr., Esq.  
Public Arbitrator, Panelist

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Signature Date

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Michael E. Weddington, Esq.  
Public Arbitrator, Panelist

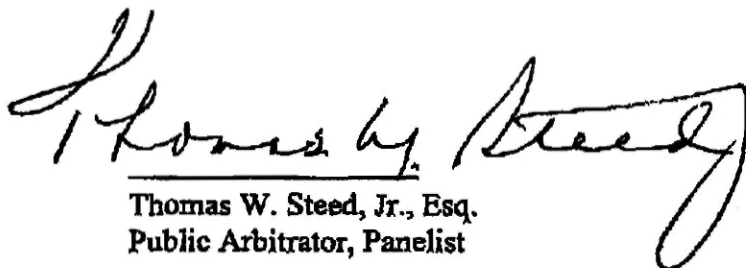
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Date of Service (For NASD Dispute Resolution office use only)

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Michael Lloyd Weisel, Esq.  
Non-Public Arbitrator, Presiding Chairperson

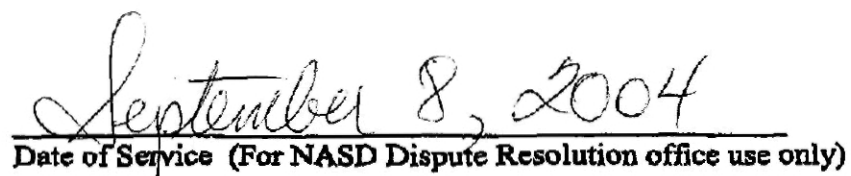
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Non-Public Arbitrator, Presiding Chairperson

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Signature Date

Michael E. Weddington  
Michael E. Weddington, Esq.  
Public Arbitrator, Panelist

9/3/04  
Signature Date

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