
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Melvyn Douglas Gautier
Ben Burpo, Jr.
Manuel R. Hodge
Cornell Wilson
Warren G. Fountain

Case Number: 03-04369

Names of the Respondents

American General Securities, Inc.
Hartford Equity Sales Company

Hearing Site: New Orleans, Louisiana

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Claimants Melvyn Douglas Gautier ("Gautier"), Ben Burpo, Jr. ("Burpo"), Manuel R. Hodge ("Hodge") and Cornell Wilson ("Wilson"): George W. Healy, IV, Esq., George W. Healy, IV and Associates, Gulfport, Mississippi.

For Claimant Warren G. Fountain ("Fountain"): John D. Cosmich, Esq., Cosmich & Simmons, PLLC, Jackson, Mississippi.

For Respondent American General Securities, Inc. ("AGSI"): John N. Bolus, Esq., Maynard, Cooper & Gale, Birmingham, Alabama.

For Respondent Hartford Equity Sales Company ("Hartford"): John F. Gillard, Akin Gump Strauss Hauer & Feld LLP, San Antonio, Texas.

CASE INFORMATION

Statement of Claim filed on or about: June 16, 2003.

Claimant Hodge signed the Uniform Submission Agreement: June 3, 2003.

Claimant Fountain signed the Uniform Submission Agreement: July 2, 2003.

Claimants Burpo and Gautier signed the Uniform Submission Agreement: July 3, 2003.

Claimant Wilson signed the Uniform Submission Agreement: July 17, 2003.

Amended Statement of Claim filed on or about: July 21, 2003.

Answer to Amended Statement of Claim filed by Respondent AGSI on or about: September 24, 2003.

Motion to Dismiss and Original Answer to Amended Statement of Claim filed by Respondent Hartford on or about: September 12, 2003.

Response to Respondent Hartford's Motion to Dismiss filed by Claimants on or about: October 6, 2003.

Limited Motion to Dismiss Claimant Fountain filed by Claimant Fountain on or about: March 12, 2004.

Opposition to Claimant Fountain's Limited Motion to Dismiss Claimant Fountain filed by Respondent AGSI on or about: April 7, 2004.

Respondent Hartford did not file a Response to Claimant Fountain's Limited Motion to Dismiss Claimant Fountain.

Supplemental Submission in Opposition to Claimant Fountain's Limited Motion to Dismiss, and in the Alternative, Motion to Sever all Parties filed by Respondent AGSI on or about: April 13, 2004.

Motion in Opposition to AGSI's Motion to Sever all Parties filed by Claimants Gautier, Burpo, Hodge and Wilson on or about: April 14, 2004.

Agreed Order of Dismissal With Prejudice of All Claims Asserted by Claimant Gautier filed on or about: July 9, 2004.

Agreed Order of Dismissal With Prejudice of All Claims Asserted by Claimant Burpo filed on or about: July 9, 2004.

Agreed Order of Dismissal With Prejudice of All Claims Asserted by Claimant Wilson filed on or about: July 9, 2004.

Motion for Summary Judgment filed by Respondent AGSI on or about: August 8, 2004.

Response to Motion for Summary Judgment filed by Claimants Hodge and Fountain on or about: August 25, 2004.

Supplemental Response to Motion for Summary Judgment filed by Claimants Hodge and Fountain on or about: September 7, 2004.

CASE SUMMARY

Claimants alleged the following causes of action: 1) fraudulent inducement; 2) misrepresentation and omission of material facts; 3) unsuitability; 4) failure to diversify; 5) breach of fiduciary duty; 6) lack of supervision in violation of the Securities Act of 1933 and the Securities Exchange Act of 1934; 7) aiding and abetting; 8) negligence; 9) unauthorized transactions; 10) failure to disclose all commissions, expenses, fees and compensation; 11) improper switching of mutual funds; 12) breach of contract; 13) incorrect quantity of securities traded; and 14) unjust enrichment. The causes of action relate to the purchases of unspecified variable annuities in Claimants' retirement accounts and the sub-account allocations thereof.

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

RELIEF REQUESTED

Claimants requested: 1) pre-award and post-award interest at the maximum rate allowed by law from the date of the original investments; 2) rescission of the variable annuity contracts or, in the alternative, compensatory damages in an amount not less than \$1,788,121.00; 3) cost of arbitration and expenses; 4) reasonable attorneys' fees; and 5) punitive damages in an amount consistent with the misconduct of Respondents but not less than \$3,576,242.00.

Respondent AGSI requested: 1) that the Amended Statement of Claim be dismissed in its entirety; 2) that all costs and forum fees in this case be assessed against Claimants; and 3) such other and further relief as the undersigned arbitrators (the "Panel") deemed just and proper.

Respondent Hartford requested: 1) that Hartford be dismissed from this arbitration proceeding; 2) that Claimants take nothing from their Amended Statement of Claim and that judgment be entered in Hartford's favor; 3) that Hartford be awarded its costs, expenses and attorneys' fees in defending this action; and 4) that the Panel grant Hartford such other and further relief as it deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about January 8, 2004, the Panel entered an order which denied Respondent Hartford's Motion to Dismiss.

On or about April 12, 2004, the Panel entered an order which denied Claimant Fountain's Limited Motion to Dismiss Claimant Fountain.

On or about July 19, 2004, the Panel entered orders which granted the respective dismissals of all claims asserted by Claimants Gautier, Burpo and Wilson in light of those Claimants' settlements with Respondents.

On or about September 21, 2004, the Panel entered an order which granted Respondent Hartford's Motion to Dismiss after reconsidering the motion.

On or about October 6, 2004, the Panel entered an order which denied the Motion for Summary Judgment filed by Respondent AGSI.

On or about March 20, 2006, the Panel entered an Agreed Order dismissing, with prejudice, Claimant Fountain.

On or about April 17, 2006, the Panel entered an Agreed Order dismissing, with prejudice, Claimant Hodge.

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 and in light of the parties' settlement of all claims between them, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

All claims, including Claimants' request for punitive damages and the parties' respective requests for attorneys' fees, are dismissed with prejudice.

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 = \$ 600.00

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 AGSI is a party and a member firm.

Member surcharge	= \$3,350.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,500.00</u>
Total Member Fees	= \$9,600.00

Respondent Hartford is a party and a member firm:

Member surcharge	= \$3,350.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,500.00</u>
Total Member Fees	= \$9,600.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

May 17-21, 2004, adjournment requested by Respondent AGSI. The Panel assessed an adjournment fee in the amount of \$1,200.00 to Respondent AGSI.

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 three-day cancellation fees of \$300.00 as follows:

\$300.00 to Claimant Fountain.

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.

There were no injunctive relief fees assessed during these proceedings.

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:

Five (5) Pre-hearing sessions with the Panel @ \$1,200.00 per session	= \$6,000.00
Pre-hearing conferences:	
January 2, 2004	1 session
April 30, 2004	1 session
August 26, 2004	1 session

September 20, 2004 1 session
January 10, 2006 1 session

Total Forum Fees = \$6,000.00

The Panel has assessed forum fees in the amount of \$600.00 to Claimants Gautier, Burpo, Hodge, Wilson and Fountain, jointly and severally.

The Panel has assessed forum fees in the amount of \$1,800.00 to Claimants Hodge and Fountain, jointly and severally.

The Panel has assessed forum fees in the amount of \$1,800.00 to Respondent AGSI.

The Panel has assessed forum fees in the amount of \$1,800.00 to Respondents AGSI and Hartford, 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 are 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 during these proceedings.

Fee Summary

Claimants Gautier, Burpo, Hodge, Wilson and Fountain are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 600.00
Total Fees	= \$ 1,200.00
Less Payments	= \$ 1,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Claimants Hodge and Fountain are jointly and severally liable for:

Forum Fees	= \$ 1,800.00
Total Fees	= \$ 1,800.00
Less Payments	= \$ 500.00
Balance Due NASD Dispute Resolution	= \$ 1,300.00

Claimant Fountain is solely liable for:

Three-day Cancellation Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less Payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 300.00

Respondent AGSI is solely liable for:

Member Fees	= \$ 9,600.00
Adjournment Fees	= \$ 1,200.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$12,600.00

<u>Less payments</u>	= \$12,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Hartford is solely liable for:

<u>Member Fees</u>	= \$ 9,600.00
Total Fees	= \$ 9,600.00
<u>Less payments</u>	= \$ 9,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents AGSI and Hartford are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 1,800.00
Total Fees	= \$ 1,800.00
<u>Less payments</u>	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

ARBITRATION PANEL

Leonard J. Sullivan, Esq.
Larry M. Roedel, Esq.
Robert R. Wolf

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-Public Arbitrator

Concurring Arbitrators' Signatures

_____/s/_____
Leonard J. Sullivan, Esq.
Public Arbitrator, Presiding Chairperson

April 21, 2006
Signature Date

_____/s/_____
Larry M. Roedel, Esq.
Public Arbitrator

April 21, 2006
Signature Date

_____/s/_____
Robert R. Wolf
Non-Public Arbitrator

April 21, 2006
Signature Date

April 21, 2006
Date of Service (For NASD Dispute Resolution office use only)

Apr. 20. 2006 4:08PM

No. 2293

NASD Dispute Resolution

Arbitration No. 03-04369

Award Page 6

<u>Less payments</u>	= \$12,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Hartford is solely liable for:

<u>Member Fees</u>	= \$ 9,600.00
<u>Total Fees</u>	= \$ 9,600.00
<u>Less payments</u>	= \$ 9,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents AGSI and Hartford are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 1,800.00
<u>Total Fees</u>	= \$ 1,800.00
<u>Less payments</u>	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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ARBITRATION PANEL


Leonard J. Sullivan, Esq.
 Larry M. Roedel, Esq.
 Robert R. Wolf

Public Arbitrator, Presiding Chairperson
 Public Arbitrator
 Non-Public Arbitrator

Concurring Arbitrators' Signatures

 Leonard J. Sullivan, Esq.
 Public Arbitrator, Presiding Chairperson

Signature Date



 Larry M. Roedel, Esq.
 Public Arbitrator

4-21-06

 Signature Date

 Robert R. Wolf
 Non-Public Arbitrator

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

MP
Apr. 20. 2006 4:17PM

No. 2292 P. 1/1

NASD Dispute Resolution

Arbitration No. 03-04369

Award Page 6

Less payments	= \$12,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent Hartford is solely liable for:

Member Fees	= \$ 9,600.00
Total Fees	= \$ 9,600.00
Less payments	= \$ 9,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents AGSI and Hartford are jointly and severally liable for:

Forum Fees	= \$ 1,800.00
Total Fees	= \$ 1,800.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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ARBITRATION PANEL

Leonard J. Sullivan, Esq.

Larry M. Roedel, Esq.

Robert R. Wolf

Public Arbitrator, Presiding Chairperson

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Leonard J. Sullivan, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Larry M. Roedel, Esq.
Public Arbitrator

Signature Date



Robert R. Wolf
Non-Public Arbitrator



Signature Date

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