
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Robert K. Miller, as Personal Representative
of the Estates of Rosalie Shaw and Wilson Shaw

Case Number: 03-04610

Name of the Respondent

Raymond James and Associates

Hearing Site: Boca Raton, Florida

Nature of the Dispute: Customer vs. Member.

REPRESENTATION OF PARTIES

For Robert K. Miller, as Personal Representative of the Estates of Rosalie Shaw and Wilson Shaw, hereinafter referred to as "Claimant": Steve Williams, Esq., Cunningham, Miller & Kyle, P.A., Marathon, Florida.

For Raymond James & Associates, hereinafter referred to as "Respondent": Brian D. Elias, Fowler White Burnett, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: June 25, 2003.

Claimant signed the Uniform Submission Agreement: July 14, 2003.

Statement of Answer filed by Respondent on or about: October 20, 2003.

Respondent signed the Uniform Submission Agreement: October 23, 2003.

CASE SUMMARY

Claimant asserted the causes of action of negligence and breach of contract. The causes of action relate to the failure by Respondent to change the named beneficiary for the annuities owned by the Wilson Shaw Revocable Trust from Rosalie Shaw to the Trustee of the Wilson Shaw Revocable Trust.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$250,000.00 for the tax consequences incurred by the Estate of Rosalie Shaw, plus additional compensatory damages in the amount of \$200,000.00 representing the loss to the named beneficiaries of the Wilson Shaw Revocable Trust.

Respondent requested that this matter be denied in its entirety.

OTHER ISSUES CONSIDERED AND DECIDED

During the evidentiary hearing on November 4, 2004, Respondent moved for a directed verdict. Claimant objected. The Panel denied the motion.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

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:

Claimant's claims are denied in their entirety.

Any and all claims for relief not specifically addressed herein 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	= \$ 300.00
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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. In this matter, the member firm Raymond James and Associates is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Adjournment Fees

Adjournment granted during these proceedings:

May 21, 2004, joint adjournment request to mediate. No adjournment fee assessed pursuant to Rule 10403 of the Code.

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:

No three-day cancellation fees were incurred 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.

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:

Two (2) Pre-hearing sessions with the Panel @ \$1,125.00		= \$2,250.00
Pre-hearing conferences:		
January 20, 2004	1 session	
August 30, 2004	1 session	
Two (2) Hearing sessions @ \$1,125.00		= \$2,250.00
Hearing Date:	November 4, 2004	2 sessions
Total Forum Fees		= \$4,500.00

The Panel has assessed \$2,250.00 of the forum fees to Claimant.

The Panel has assessed \$2,250.00 of the forum fees to Respondent.

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.

No administrative costs were incurred in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 2,550.00
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 1,125.00

Respondent is solely liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,250.00
Total Fees	= \$ 7,450.00
Less payments	= \$ 5,200.00

Balance Due NASD Dispute Resolution

= \$ 2,250.00

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

ARBITRATION PANEL

John A. Kovarik, Esq.	-	Public Arbitrator, Presiding Chairperson
Michael Lau	-	Public Arbitrator
Harry C. Treber	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

11/09/04

John A. Kovarik, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

11/11/04

Michael Lau
Public Arbitrator

Signature Date

/s/

11/09/04

Harry C. Treber
Non-Public Arbitrator

Signature Date

11/11/04

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

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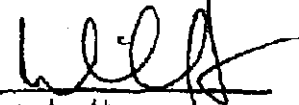
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Public Arbitrator, Presiding Chairperson

Signature Date



Michael Lau
Public Arbitrator

11/11/04

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Public Arbitrator

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