

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Name of Claimant

Phillis Rienstra Jeffrey, Individually and as
Beneficiary of Robert Jeffrey (deceased) IRA

and

Case Number: 03-05918
Hearing Site: Houston, Texas

Names of Respondents

Metropolitan Life Insurance Co.,
MetLife Securities, Inc., and
Jens F. Busch, Jr.

NATURE OF DISPUTE

Customer v. Member Firms and Associated Person

REPRESENTATION OF PARTIES

Phillis Rienstra Jeffrey, Individually and as Beneficiary of Robert Jeffrey (Deceased) IRA ("Claimant") was represented by Anna Lee Drayer, Esq., Austin, Texas.

Metropolitan Life Insurance Co. ("MLIC") and MetLife Securities, Inc. ("MetLife") were represented by John Pendleton, Jr., Esq., McCarter & English, LLP, Newark, New Jersey.

Jens F. Busch, Jr. ("Busch") was represented by B. Blake Cox, Esq., Law, Snakard & Gambill, Fort Worth, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about August 14, 2003. The Submission Agreement of Claimant was signed on or about August 26, 2003.

The Joint Statement of Answer was filed by Respondents, Metropolitan Life Insurance Co. and MetLife Securities, Inc., on or about January 28, 2004. The Submission Agreements of Respondent, Metropolitan Life Insurance Co. and MetLife Securities, Inc., were signed on or about December 3, 2003.

The Statement of Answer was filed by Respondent, Jens Busch, Jr., on or about January 27, 2004. The Submission Agreement of Respondent, Busch, was signed on or about January 27, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty, suitability, fraud, negligent misrepresentation, failure to supervise, violations of SEC Rule 10 (b), NASD rules and common law principles. Claimant alleged that the causes of action related to retirement accounts that were converted to various mutual funds and their performance during the years 2000 and 2001. Claimant also alleged that the causes of action related to the supervision of Jens Busch, Jr.

Respondents denied the allegations made in the Statement of Claim and asserted the following general defenses: the mutual funds had been selected by Claimant and were suitable; there was a lack of discretionary authority over the account and therefore there was no corresponding fiduciary duty; there was a lack of scienter or fraudulent intent by Respondent, Jens Busch, Jr., in dealing with the account; and there was a lack of reliance on the part of Claimant. Respondents also asserted the following affirmative defenses: Claimant was negligent in her own losses; Claimant had an affirmative duty to exercise due diligence in reviewing investment related materials and cannot disregard or ignore known and obvious risks; Claimant could not demonstrate that Respondents knew or reasonably believed that its investment recommendations were not suited to her needs or made any material misrepresentations related to their recommendations; Claimant did not justifiably or reasonably rely upon alleged representations or predictions about the anticipated performance of her investments, to the extent any such representations or predictions may have been made; Respondents' sales practices were consistent with accepted industry practices; Respondents asserted the principle of in pari delicto; Respondents made no misstatements of material fact; Claimant's damages, to the extent that any occurred, were the result of market forces, not Respondents' conduct; all claims are barred by assumption of the risk; Claimant's claims were barred by the applicable statutes of limitations; Claimant could not prove any damages caused by Respondents' conduct; Claimant has failed to state a claim upon which relief can be granted; Claimant's claims were barred by the doctrine of waiver; Claimant's claims were barred by the doctrine of estoppel; Claimant's claims were barred by the doctrine of laches; Claimant's claims were barred by the parole evidence rule; Claimant's claims were barred by the statute of frauds; Claimant's claims are barred by the doctrine of ratification; and Claimant failed to mitigate her damages.

RELIEF REQUESTED

Claimant requested an award in the amount of:

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|-----------------------------|----------------|
| Actual/Compensatory Damages | \$1,300,000.00 |
| Punitive/Exemplary Damages | \$1,000,000.00 |
| Interest | Unspecified |
| Attorneys' Fees | Unspecified |
| Other Costs | Unspecified |
| Other Monetary Relief | Unspecified |

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees and expungement

OTHER ISSUES CONSIDERED & DECIDED

Originally, the Claimant initiated suit in the District Court of Travis County Texas on April 25, 2002. Respondents Metropolitan Life Insurance Co., MetLife Securities, Inc. and Jens F. Busch, Jr. filed an answer on June 19, 2002 and requested abatement pursuant to arbitration clauses related to the claims asserted by Claimant. The case was subsequently abated on March 27, 2003, by the Travis County District Court referred to arbitration.

Claimant and Respondents have agreed to resolve any and all claims and have jointly agreed to seek expungement of any derogatory information in reference to Jens Busch, Jr. from the Central Registration Depository. The Parties have agreed that a single arbitrator may execute the Stipulated Award.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

After considering the parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Claimant's claims, each and all, are dismissed with prejudice pursuant to the parties' settlement agreement;
- 2.) The parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent, Jens Busch, Jr.'s, registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent, Jens Busch, Jr., must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

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 = \$ 500.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person at the time of the events giving rise to the dispute. In this matter, the member firms are Metropolitan Life Insurance Co. and MetLife Securities, Inc.

Member surcharge = \$ 2,800.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 5,000.00

Adjournment Fees

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

Hearing dates of October 25-27, 2004, = \$ 300.00
were canceled due to the parties' 10/22/2004 settlement notice

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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 a single arbitrator x \$450.00 = \$ 450.00
Pre-hearing conference: June 15, 2004 1 session

One (1) Pre-hearing session with Panel x \$1,200.00 = \$ 1,200.00
Pre-hearing conference: April 27, 2004 1 session

Total Forum Fees = \$ 1,650.00

The Arbitration Panel has assessed \$550.00 of the forum fees to Phillis Rienstra Jeffrey, Individually and as Beneficiary of Robert Jeffrey (Deceased) IRA.

The Arbitration Panel has assessed \$550.00 of the forum fees jointly and severally to Metropolitan Life Insurance Co. and MetLife Securities, Inc.

The Arbitration Panel has assessed \$550.00 of the forum fees to Jens F. Busch, Jr.

Pursuant to Rule 10332(f) of NASD Code of Arbitration Procedures: *The Association shall retain the total initial amount deposited as hearing session deposits by all the parties in any matter submitted and settled or withdrawn within eight business days of the first scheduled hearing session other than a pre-hearing conference.* As NASD Dispute Resolution received notice of the settlement within eight business days of the first scheduled hearing, \$650.00 of the Claimant's remaining hearing session deposit is retained.

EEE SUMMARY

Claimant, Phillis Rienstra Jeffrey, Individually and as Beneficiary of Robert Jeffrey (Deceased) IRA, is liable for:

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|-------------------------------------|----------------------|
| Initial Filing Fee | = \$ 500.00 |
| Three-Day Cancellation Fee | = \$ 100.00 |
| Hearing Session Deposit Retained | = \$ 650.00 |
| <u>Forum Fees</u> | <u>= \$ 550.00</u> |
| Total Fees | = \$ 1,800.00 |
| <u>Less payments</u> | <u>= \$ 1,700.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 100.00 |

Respondent, Metropolitan Life Insurance Co. is liable for:

| | |
|-------------------------------------|----------------------|
| <u>Member Fees</u> | <u>= \$ 8,550.00</u> |
| Total Fees | = \$ 8,550.00 |
| <u>Less payments</u> | <u>= \$ 8,550.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

Respondent, MetLife Securities, Inc. is liable for:

| | |
|-------------------------------------|----------------------|
| <u>Member Fees</u> | <u>= \$ 8,550.00</u> |
| Total Fees | = \$ 8,550.00 |
| <u>Less payments</u> | <u>= \$ 8,550.00</u> |
| Balance Due NASD Dispute Resolution | = \$ 0.00 |

Respondents, Metropolitan Life Insurance Co. and MetLife Securities, Inc., are jointly and severally liable for:

| | |
|-------------------------------------|-------------|
| Three-Day Cancellation Fee | = \$ 100.00 |
| <u>Forum Fees</u> | = \$ 550.00 |
| Total Fees | = \$ 650.00 |
| <u>Less payments</u> | = \$ 0.00 |
| Balance Due NASD Dispute Resolution | = \$ 650.00 |

Respondent, Jens F. Busch, Jr., is liable for:

| | |
|-------------------------------------|-------------|
| Three-Day Cancellation Fee | = \$ 100.00 |
| <u>Forum Fees</u> | = \$ 550.00 |
| Total Fees | = \$ 650.00 |
| <u>Less payments</u> | = \$ 0.00 |
| Balance Due NASD Dispute Resolution | = \$ 650.00 |

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

ARBITRATOR

George A. Sellnau, Esq.- Public Arbitrator, Presiding Chair

Arbitrator:

/s/ George A. Sellnau, Esq.
George A. Sellnau, Esq.
Public Arbitrator, Presiding Chair

December 9, 2004
Signature Date

December 9, 2004
Date of Service (For NASD office use only)

Wiederholungsfragen

Application No. 02-05077

100-443887-100

ABSTRACT

George A. Bellows, Esq.,- Public Arbitrator, Presiding Chair

Autism

George A. Sellman

George A. Sullivan, Esq.
Public Attorney, Presiding Chair

12-9-04

Signature: _____

Date of Service (For NASD officers only)