
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Mary Bailey

Case Number: 03-05935

Names of the Respondents
K.W. Brown Investments
Directed Services, Inc.
Katy L. Talton

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Mary Bailey (Bailey), hereinafter referred to as "Claimant": Chandra Parker Doucette, Esq., Boca Raton, Florida.

For Respondents K.W. Brown Investments ("KWBI") and Katy L. Talton ("Talton"): Stephen A. Mendelsohn, Esq., Greenberg Traurig, P.A., Boca Raton, Florida.

For Respondent Directed Services, Inc. ("DSI"): Elaine M. Rice, Esq., Fowler White Boggs Banker P.A., Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: August 18, 2003.

Claimant signed the Uniform Submission Agreement: March 3, 2003.

Statement of Answer filed by Respondents KWBI and Talton on or about: October 16, 2003.

Respondent KWBI signed the Uniform Submission Agreement: October 16, 2003.

Respondent Talton signed the Uniform Submission Agreement: October 16, 2003.

Statement of Answer filed by Respondent DSI on or about: October 31, 2003.

Respondent DSI signed the Uniform Submission Agreement: October 7, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: 1) breach of contract; 2) breach of fiduciary duty; 3) fraud and deceit; 4) negligence and gross negligence; and 5) violations of unspecified federal and state laws. The causes of action relate to the purchase of a Golden American Variable Annuity.

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

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

RELIEF REQUESTED

Claimant requested compensatory damages of \$100,000.00, plus attorney's fees, the costs of this proceeding and such other relief as is found appropriate under the circumstances.

Respondents KWBI and Talton requested that all claims against them be dismissed and reserved the right to seek attorney's fees from a court of competent jurisdiction.

Respondent DSI requested that all claims against it be dismissed.

OTHER ISSUES CONSIDERED AND DECIDED

On or about October 19, 2004, Claimant advised NASD Dispute Resolution that she was dismissing, with prejudice, all claims against Respondent DSI. Claimant advised the arbitration panel of this dismissal at the commencement of the evidentiary hearing on October 20, 2004.

Respondent's ore tenus Motion to Dismiss asserted at the conclusion of Claimant's presentation of evidence at the evidentiary hearing, was denied.

The parties in this matter 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 undersigned arbitrators (the "Panel") have decided in full and final resolution of the issues submitted for determination as follows:

1. From the testimony, it became abundantly clear that Respondent KWBI's compliance (internal) leaves great room for improvement. It was such in 2000 and appears not to have improved by 2004. Also of interest, neither principal Ken Brown nor Wendy Brown chose to be present at the arbitration proceeding. As such, Respondent KWBI is liable and shall pay to Claimant the sum of \$10,000.00 in compensatory damages, pre-judgment interest specifically excluded. Damages are awarded based upon Claimant's claim of negligence, specifically lack of proper supervision.
2. Respondent KWBI is liable and shall pay to Claimant attorney's fees in the sum of \$4,000.00. Attorney's fees are awarded pursuant to the annuity contract executed by the parties.
3. Respondent KWBI is liable and shall pay to Claimant the sum of \$225.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.
4. 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 = \$225.00

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. Accordingly, KWBI is a member firm and a party.

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

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. Accordingly, DSI is a member firm and a party.

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

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed.

No adjournment fees were incurred during these proceedings.

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 during these proceedings.

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 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 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 sessions with the Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: February 9, 2004	1 session
Five (5) Hearing sessions with the Panel @ \$750.00	= \$3,750.00
Hearing Dates: October 20, 2004	3 sessions
October 21, 2004	2 sessions
<hr/> Total Forum Fees	<hr/> = \$4,500.00

The Panel has assessed the total forum fees of \$4,500.00 to Respondent KWBI.

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 during these proceedings.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 225.00
<u>Total Fees</u>	= \$ 225.00
<u>Less payments</u>	= \$ 225.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent KWBI is solely liable for:

<u>Member Fees</u>	= \$3,550.00
<u>Forum Fees</u>	= \$4,500.00
<u>Total Fees</u>	= \$8,050.00
<u>Less payments</u>	= \$4,300.00
<u>Balance Due NASD Dispute Resolution</u>	= \$3,750.00

Respondent DSI is solely liable for:

<u>Member Fees</u>	= \$3,550.00
<u>Total Fees</u>	= \$3,550.00
<u>Less payments</u>	= \$3,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 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

Michael A. Levin, Esq.	-	Public Arbitrator, Presiding Chairperson
J. Philip Knight	-	Public Arbitrator
Michael William Landsberg	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Michael A. Levin, Esq.
Public Arbitrator, Presiding Chairperson

November 1, 2004
Signature Date

J. Philip Knight
Public Arbitrator

Signature Date

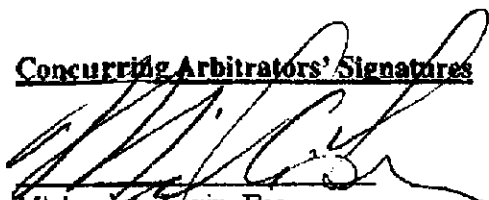
/s/
Michael William Landsberg
Non-Public Arbitrator

November 1, 2004
Signature Date

November 1, 2004
Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures



Michael A. Levin, Esq.
Public Arbitrator, Presiding Chairperson

11-1-04
Signature Date

J. Philip Knight
Public Arbitrator

Signature Date

Michael William Landsberg
Non-Public Arbitrator

Signature Date

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

Concurring Arbitrators' Signatures

Michael A. Levin, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

J. Philip Knight
Public Arbitrator

Signature Date



Michael William Landsberg
Non-Public Arbitrator

11/1/04

Signature Date

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