

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Iris Lilly (Claimant) v. J.J.B. Hilliard, W.L. Lyons, Inc. and Brian K. Music (Respondents)

Case Number: 03-06059

Hearing Site: Columbus, Ohio

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

REPRESENTATION OF PARTIES

Claimant Iris Lilly ("Lilly") hereinafter referred to as "Claimant": Jeffrey B. Musslewhite, Esq., previously Duane E. Tobias, Esq., Woska & Hasbrook, LLP, formerly Woska & Hayes, LLP, Kingwood, TX.

Respondents J.J.B. Hilliard, W.L. Lyons, Inc. ("Hilliard Lyons") and Brian K. Music ("Music") hereinafter collectively referred to as "Respondents": Kenneth A. Bravo, Esq., previously Elin B. Young, Esq., Ulmer & Berne, LLP, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: August 19, 2003.

Claimant's Response to Respondents' Motion to Dismiss and Answer filed on or about: December 10, 2003.

Claimant signed the Uniform Submission Agreement: May 30, 2003.

Joint Statement of Answer filed by Respondents on or about: November 14, 2003.

Respondent Hilliard Lyons signed the Uniform Submission Agreement: October 30, 2003.

Respondent Music signed the Uniform Submission Agreement: October 9, 2003.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability; respondeat superior liability; and failure to supervise. The causes of action relate to a John Hancock Variable Annuity

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$59,000.00, plus pre-judgment interest at 9% per annum from December 1999 to the date of the award; attorneys' fees, costs, and expenses; and punitive damages.

Respondents requested that they be dismissed from this matter and that judgment be rendered in their favor and against Claimant, with all costs, including reasonable attorneys' fees and forum fees, to be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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.

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:

1. Respondents Hilliard Lyons and Music are jointly and severally liable for and shall pay to Claimant compensatory damages in the amount of \$63,770.00 plus simple interest at the rate of 9% from May 27, 2003, to the date of the Award.
2. Respondents Hilliard Lyons and Music are jointly and severally liable for and shall pay to Claimant attorneys' fees in the amount of \$32,253.00 pursuant to the contract entered into by the parties.
3. Respondents Hilliard Lyons and Music are jointly and severally liable for and shall pay to Claimant costs in the amount of \$7,462.00.
4. Any and all relief not specifically addressed herein, is denied.

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 = \$225.00

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. Accordingly, J.J.B. Hilliard, W.L. Lyons, Inc. is a party.

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

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the 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 Panel @ \$750.00	= \$ 750.00
Pre-hearing conference: April 12, 2004 1 session	
Five (5) Hearing sessions @ \$750.00	= \$3,750.00
Hearing Dates: December 14, 2004 2 sessions	
December 15, 2004 2 sessions	
December 16, 2004 1 session	
Total Forum Fees	= \$4,500.00

1. The Panel has assessed \$2,250.00 of the forum fees against Claimant.
2. The Panel has assessed \$2,250.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 225.00
Forum Fees	= \$2,250.00
Total Fees	= \$2,475.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$1,500.00

2. Respondent Hilliard Lyons is solely liable for:

Member Fees	= \$3,550.00
Total Fees	= \$3,550.00
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees	= \$2,250.00
Total Fees	= \$2,250.00
Less payments	= \$ 0.00
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

William M. Slonaker, Sr., JD	-	Public Arbitrator, Presiding Chairperson
Thomas H. Schumann	-	Public Arbitrator
Sandra J. Bakalus	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

Wm. M. Slonaker, Sr. Arbitrator
William M. Slonaker, Sr., JD
Public Arbitrator, Presiding Chairperson

12-20-04
Signature Date

Thomas H. Schumann
Public Arbitrator

Signature Date

Sandra J. Bakalus
Non-Public Arbitrator

Signature Date

December 22, 2004
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

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Thomas H. Schumann	Public Arbitrator
Sandra J. Bakalus	Non-Public Arbitrator

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William M. Slonaker, Sr., JD
Public Arbitrator, Presiding Chairperson

Signature Date



Thomas H. Schumann
Public Arbitrator

12/18/04

Signature Date

Sandra J. Bakalus
Non-Public Arbitrator

Signature Date

December 22, 2004
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ARBITRATION PANEL

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Public Arbitrator, Presiding Chairperson

Signature Date

Thomas H. Schumann
Public Arbitrator

Signature Date



Sandra J. Bakalus
Non-Public Arbitrator

12/20/04

Signature Date

December 22, 2004
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