

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
William K. Maynard

Case Number: 03-06060

Names of the Respondents
PNC Bank Corp. (a member of the PNC Financial Services Group),
PNC Investments (a division of J.J.B. Hilliard, W.L. Lyons, Inc.),
J.J.B. Hilliard, W.L. Lyons, Inc., and
Jeffrey McKinnon

Hearing Site: Philadelphia, PA

Nature of the Dispute: Customer vs. Non-Members, Member and Associated Person

REPRESENTATION OF PARTIES

Claimant, William K. Maynard, hereinafter referred to as "Claimant", was represented by Nicholas J. Guiliano, Esq., The Guiliano Law Firm, and Steven M. Dranoff, Esq., Philadelphia, Pennsylvania.

Respondents, PNC Bank Corp. (a member of the PNC Financial Services Group), PNC Investments (a division of J.J.B. Hilliard, W.L. Lyons, Inc.), J.J.B. Hilliard, W.L. Lyons, Inc. ("Hilliard, Lyons"), and Jeffrey McKinnon ("McKinnon"), were represented by Brian A. Carlis, Esq., Stark & Stark, Princeton, New Jersey.

CASE INFORMATION

Statement of Claim filed on August 20, 2003.

Claimant signed the Uniform Submission Agreement on August 7, 2003.

First Amended Statement of Claim filed on November 1, 2003.

Claimant signed an amended Uniform Submission Agreement on November 12, 2003.

Motion to Dismiss Statement of Answer filed by Respondents Hilliard, Lyons and McKinnon on December 12, 2003.

Respondent Jeffrey H. McKinnon signed the Uniform Submission Agreement on March 4, 2004.

Claimant's Response to Respondents' Motion to Dismiss filed on December 17, 2003.

CASE SUMMARY

Claimant asserted the following causes of action in his First Amended Statement of Claim: misrepresentations and omission of facts; sale of unsuitable securities; violations of Pennsylvania Trade Practices and Consumer Protection Law; breach of fiduciary duty; failure to supervise; and common law fraud. The causes of action relate to the purchase and sale of a variable annuity and stock mutual funds.

Unless specifically admitted in their Answer, Respondents Hilliard, Lyons and McKinnon denied the allegations made in the First Amended Statement of Claim and asserted the following defenses among others: failure to state a claim upon which relief may be granted; authorization; ratification; contributory/comparative negligence; failure to mitigate; statutes of limitation; assumption of the risk; estoppel; laches; *in para delicto*; and, no private right of action for any alleged violation of the rules of the self-regulatory organization.

RELIEF REQUESTED

Claimant requested at the hearing \$29,000.00 in compensatory damages and lost income, interest, and attorneys' fees in unspecified amounts.

Respondents requested judgment dismissing the Statement of Claim with prejudice, together with an award of all reasonable costs and expenses, including reasonable attorneys' fees, costs of suit and other such further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

Named Respondents PNC Investments and PNC Bank Corp. are not NASD Member firms and thus, were served with the Statement of Claim on a voluntary basis. They did not consent to the jurisdiction of NASD. Subsequently, Claimant amended the Statement of Claim to include only Hilliard, Lyons and McKinnon as Respondents.

Respondent Hilliard, Lyons did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to NASD Code of Arbitration Procedure and, having answered the claim, appeared and testified at the hearing, is bound by the determination of the Arbitrator on all issues submitted.

At the hearing on the merits, Respondents renewed their Motion to Dismiss. The Arbitrator denied the Motion.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Hilliard, Lyons and McKinnon are jointly and severally liable to and shall pay to Claimant compensatory damages in the amount of twenty-one thousand three hundred twenty-three dollars and no cents (\$21,323.00) plus simple interest at the rate of three percent (3%) to accrue from October 15, 2000 through January 30, 2005;
2. Respondents Hilliard, Lyons and McKinnon are jointly and severally liable to and shall pay to Claimant eight thousand five hundred twenty-nine dollars and no cents (\$8,529.00) in attorneys' fees pursuant to *Mastrobuono v. Shearson Lehman Hutton, Inc.*, 514 U.S. 52, 1215 (1995);
3. Respondents Hilliard, Lyons and McKinnon are jointly and severally liable to and shall pay to Claimant costs in the amount of nine hundred seventy-five dollars and no cents (\$975.00);
4. The parties shall bear their respective costs, including attorneys' fees, except as awarded above and as Fees are specifically addressed below; and,
5. Any and all relief not specifically addressed herein, including punitive and treble damages, is denied in its entirety.

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	= \$ 175.00
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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. Accordingly, Hilliard, Lyons is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$1,000.00

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with Arbitrator @ \$450.00 = \$ 900.00
Pre-hearing conferences: May 7, 2004 1 session
November 19, 2004 1 session

Two (2) Hearing sessions with Arbitrator @ \$450.00 = \$ 900.00
Hearing Date: January 25, 2005 2 sessions

Total Forum Fees = \$1,800.00

1. The Arbitrator has assessed \$ 450.00 of the forum fees to Claimant.
2. The Arbitrator has assessed \$1,350.00 of the forum fees jointly and severally to Respondents Hilliard, Lyons and McKinnon.

Fee Summary

1. Claimant is assessed and shall pay:

Initial Filing Fee	= \$ 175.00
Forum Fees	= \$ 450.00
Total Fees	= \$ 625.00
Less payments	= \$ 750.00
Refund owed from NASD Dispute Resolution	= \$ 125.00

2. Respondent Hilliard, Lyons is assessed and shall pay:

Member Fees	= \$2,625.00
Total Fees	= \$2,625.00
Less payments	= \$2,625.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents Hilliard, Lyons and McKinnon are jointly and severally assessed and shall pay:

Forum Fees	= \$1,350.00
Total Fees	= \$1,350.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$1,350.00

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

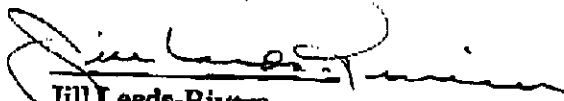
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ARBITRATION PANEL

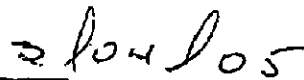
Jill Leeds-Rivera

Public Arbitrator, Presiding

Arbitrator's Signature



Jill Leeds-Rivera
Public Arbitrator, Presiding



Signature Date

March 4, 2005

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