

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Thomas Kierce and Nancy Kierce (Claimants) v. ING America Equities, Inc., ReliaStar-ING,
and Joseph C. Connolly (Respondents)

Case Number: 04-00078

Hearing Site: Boston, Massachusetts

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

REPRESENTATION OF PARTIES

Claimants Thomas Kierce ("T. Kierce") and Nancy Kierce ("N. Kierce"), hereinafter collectively referred to as "Claimants": John J. Lynch, Esq., Lowell, MA. Previously represented by Michael O'Meara, Insurance Wholesalers, Tyngsboro, MA.

Respondents ING America Equities, Inc. ("ING") and ReliaStar-ING ("ReliaStar") hereinafter referred to as "Respondents": Steven M. O'Brien, Esq., Long & Holden, Boston, MA.

Respondent Joseph C. Connolly ("Connolly"): John W. Steinmetz, Esq. and Lee M. Holland, Esq., Robinson & Cole, Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: January 2, 2004.

Claimant T. Kierce signed the Uniform Submission Agreement: November 11, 2003.

Claimant N. Kierce signed the Uniform Submission Agreement: November 11, 2003.

Joint Statement of Answer filed by Respondents ING and ReliaStar on or about: April 1, 2004.

Respondent ING signed the Uniform Submission Agreement: April 1, 2004.

Respondent ING filed a Motion to Dismiss on or about: December 22, 2004.

Respondent ReliaStar did not submit a Uniform Submission Agreement.

Statement of Answer filed by Respondent Connolly on or about: April 1, 2004.

Respondent Connolly signed the Uniform Submission Agreement: March 16, 2004.

CASE SUMMARY

Claimants asserted no specific causes of action in the Statement of Claim. The causes of action relate to life insurance policies.

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

RELIEF REQUESTED

Claimants requested:

Compensatory Damages	\$ 29,000.00-Thomas Kierce
Compensatory Damages	\$ 10,000.00-Nancy Keirce
Compensatory Damages	\$ 19,296.00-Premiums
Punitive Damages	\$ 41,704.00
Interest	\$ Unspecified

Respondents ING and ReliaStar requested that the Panel deny Claimants' claims for relief, dismiss the Statement of Claim with prejudice, award Respondents' costs, attorney's fees, and such additional relief the Panel may deem just and proper.

Respondent Connolly requested that the Panel deny Claimants' claims for relief, dismiss the Statement of Claim with prejudice, award Respondents' costs, attorney's fees, and such additional relief the Panel may deem just and proper

OTHER ISSUES CONSIDERED AND DECIDED

A pre-hearing conference was held on January 21, 2005, when the Panel heard oral arguments regarding the Motion to Dismiss filed by Respondent ING. After careful consideration, the Panel granted Respondent's said motion.

Respondent Relia-Star was not a member of NASD during the period of time in dispute and declined to voluntarily submit to the jurisdiction of NASD Dispute Resolution, Inc., in this matter.

At the hearing on July 20, 2005, the Panel heard arguments on Respondent Connolly's Motion for a Directed Verdict and Claimants' Motion for Sanctions. After due deliberation, the Panel granted Respondent Connolly's said Motion as it relates to the policy on Claimant N. Kierce's life and denied said Motion as it relates to the policy on Claimant T. Kierce's life. The Panel also denied Claimants' Motion for Sanctions.

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, 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. Respondent Connolly is liable for and shall pay Claimant N. Kierce compensatory damages in the amount of \$6,833.00.
2. Any and all relief not specifically addressed herein, including punitive damages, 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, ING is 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:

February 2-3, 2005, adjournment requested by Claimant	= \$ waived
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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:

Five (5) Pre-hearing sessions with Panel @ \$750.00	= \$ 3,750.00
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Pre-hearing conferences:	June 30, 2004	1 session
	January 21, 2005	1 session
	January 28, 2005	1 session
	June 10, 2005	1 session
	July 20, 2005	1 session

Six (6) Hearing sessions @ \$750.00	= \$ 4,500.00
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Hearing Dates:	June 16, 2005	2 sessions
	June 17, 2005	2 sessions

July 21, 2005

2 sessions

Total Forum Fees = \$ 8,250.00

1. The Panel has assessed \$ 4,125.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$ 4,125.00 of the forum fees to Respondent Connolly.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 225.00
<u>Forum Fees</u>	= \$ 4,125.00
Total Fees	= \$ 4,350.00
<u>Less payments</u>	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 3,375.00

2. Respondent ING is solely liable for:

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

3. Respondent Connolly is solely liable for:

<u>Forum Fees</u>	= \$ 4,125.00
Total Fees	= \$ 4,125.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 4,125.00

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

NASD REGULATION

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ARBITRATION PANEL

David Ellis	Public Arbitrator, Presiding Chairperson
Brian J. Dunn	Public Arbitrator
C. Henry Lucas	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.

David Ellis
David Ellis
Public Arbitrator, Presiding Chairperson

7/27/05
Signature Date

C. Henry Lucas
Non-Public Arbitrator

Signature Date

Dissenting Arbitrators Signature

Brian J. Dunn
Public Arbitrator

Signature Date

August 1, 2005
Date of Service (For NASD Dispute Resolution use only)

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ARBITRATION PANEL

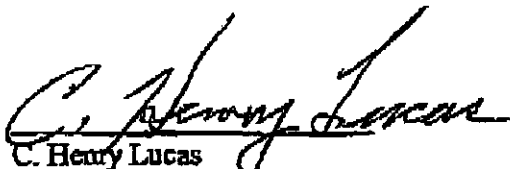
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Public Arbitrator, Presiding Chairperson

Signature Date


C. Henry Lucas
Non-Public Arbitrator

Signature Date

Dissenting Arbitrators Signature

Brian J. Dunn
Public Arbitrator

Signature Date


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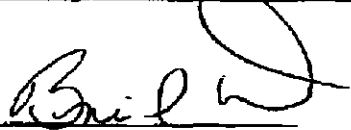
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Public Arbitrator, Presiding Chairperson

Signature Date

C. Henry Lucas
Non-Public Arbitrator

Signature Date


Dissenting Arbitrators Signature



Brian J. Dunn
Public Arbitrator



Signature Date



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