

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Birgitta I. Reese

Case Number: 04-00783

Names of the Respondents

PNC Investments

William E. Walenda

David Deblasio

Hearing Site: Philadelphia, Pennsylvania

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

REPRESENTATION OF PARTIES

Claimant, Birgitta I. Reese ("Reese"), hereinafter referred to as "Claimant", was represented by Douglas R. Lally, Esq., Attorney at Law, Jenkintown, Pennsylvania.

Respondent, PNC Investments ("PNC"), hereinafter referred to as "Respondent PNC", was represented by Elin Brenner Young, Esq., Ulmer and Berne, LLP, Cleveland, Ohio.

Respondent, William E. Walenda ("Walenda"), hereinafter referred to as "Respondent Walenda", represented himself at the hearing.

Respondent, David Deblasio ("Deblasio"), hereinafter referred to as "Respondent Deblasio", did not appear at the hearing.

CASE INFORMATION

Statement of Claim filed on February 5, 2004.

Claimant signed the Uniform Submission Agreement on October 9, 2003.

Statement of Answer filed by Respondent PNC on September 3, 2004.

A representative of Respondent PNC executed the Uniform Submission Agreement on September 3, 2004.

Respondents Walenda and Deblasio did not file Statements of Answer.

Respondents Walenda and Deblasio did not submit signed Uniform Submission Agreements with NASD Dispute Resolution.

CASE SUMMARY

Claimant, in her Statement of Claim asserted the following causes of action, among others: breach of fiduciary duty, failure to act in good faith, suitability, fraud, omissions of material fact, and violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law. The causes of action relate to the purchase of K-Mart bonds.

Unless specifically admitted in its Answer, Respondent PNC denied the allegations made in the

Statement of Claim and asserted the following defenses, among others: failure to state a claim upon which relief may be granted; Claimant's claims are barred by the doctrines of estoppel, waiver and laches, as well as the applicable statutes of limitations; and ratification.

RELIEF REQUESTED

Claimant in her Statement of claim requested compensatory damages, treble damages, and attorneys' fees totaling no more than \$50,000.00, interest, costs, and any other relief that the Arbitration Panel (the "Panel") deems just and proper.

Respondent PNC in its Statement of Answer requested that the Statement of Claim be dismissed in its entirety, that judgment be rendered in its favor, and that the Panel award Respondent PNC its costs, including reasonable attorneys' fees, incurred in connection with the defense of this action.

OTHER ISSUES CONSIDERED AND DECIDED

Upon review of the file and the representations made by the Claimant, the undersigned Panel determined that Respondent Deblasio has been properly served with the statement of Claim and received due notice of the hearing, and that arbitration of the matter would proceed without said Respondent present, in accordance with the NASD Code of Arbitration Procedure (the "Code").

Respondent Deblasio did not file with NASD Dispute Resolution, a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and is bound by the determination of the Panel on all issues submitted.

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

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. Respondents PNC, Walenda and Deblasio are jointly and severally liable to and shall pay Claimant compensatory damages in the amount of \$ 14,980.27. No interest is awarded on this amount;
2. Respondent PNC is liable to and shall pay to Claimant \$175.00 as reimbursement for Claimant's filing fee;

3. All claims for treble damages are denied in their entirety;
4. All claims for attorneys' fees are denied in their entirety;
5. The parties shall bear their respective costs, including attorneys' fees, except as Fees are specifically addressed below; and
6. Any and all relief not specifically addressed herein 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

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(s) at the time of the events giving rise to the dispute. Accordingly, Respondent PNC is a party.

Member surcharge	= \$ 875.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$ 1,000.00</u>
Total Member Fees	= \$ 2,625.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

July 12 - 13, 2005, adjournment requested by Respondent PNC = \$ 600.00

Forum Fees and Assessments

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

One (1) Pre-hearing session with Panel @ \$ 600.00	= \$ 600.00
Pre-hearing conference: December 10, 2004	1 session
Two (2) Hearing sessions @ \$ 600.00	= \$ 1,200.00
Hearing Date: September 13, 2005	2 sessions
Total Forum Fees	= \$ 1,800.00

The Panel has assessed \$ 1,800.00 of the forum fees to Respondent PNC.

FEES SUMMARY

Claimant is assessed and shall pay:

<u>Initial Filing Fee</u>	= \$ 175.00
<u>Total Fees</u>	= \$ 175.00
<u>Less payments</u>	= \$ 775.00
<u>Refund owed to Claimant</u>	= \$ 600.00

Respondent PNC is assessed and shall pay:

<u>Member Fees</u>	= \$ 2,625.00
<u>Adjournment Fee</u>	= \$ 600.00
<u>Forum Fees</u>	= \$ 1,800.00
<u>Total Fees</u>	= \$ 5,025.00
<u>Less payments</u>	= \$ 2,625.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 2,400.00

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

ARBITRATION PANEL

Emanuel Goren	-	Public Arbitrator, Presiding Chairperson
Kathleen Kovach Murphy, Esq.	-	Public Arbitrator, Panelist
Carol Corbett	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures



Emanuel Goren
Public Arbitrator, Presiding Chairperson

9/20/05
Signature Date

Kathleen Kovach Murphy, Esq.
Public Arbitrator, Panelist

Signature Date

Carol Corbett
Non-Public Arbitrator, Panelist

Signature Date


September 22, 2005
Date of Service (For NASD Dispute Resolution office use only)

Concurring Arbitrators' Signatures

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Public Arbitrator, Presiding Chairperson

Signature Date


Kathleen Kovach Murphy, Esq.
Public Arbitrator, Panelist


Signature Date

Carol Corbett
Non-Public Arbitrator, Panelist

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Public Arbitrator, Presiding Chairperson

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