
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Victor Rincon

Case Number: 04-01553

Names of the Respondents
Allmerica Investments, Inc.
Allmerica Financial Life Insurance & Annuity Company
Veravest Investments, Inc.

Hearing Site: San Juan, Puerto Rico

Nature of the Dispute: Associated Person vs. Member.

REPRESENTATION OF PARTIES

For Victor Rincon, hereinafter referred to as "Claimant": Jose A. Axtmayer, Esq., Axtmayer PSC, San Juan, Puerto Rico.

For Allmerica Investments, Inc. ("AI"), Allmerica Financial Life Insurance & Annuity Company ("AFLIAC") and Veravest Investments, Inc. ("Veravest"), hereinafter collectively referred to as "Respondents": Frank Gotay-Barquet, Esq., Gotay & Perez, PSC, San Juan, Puerto Rico.

CASE INFORMATION

Statement of Claim filed on or about: March 8, 2004.

Claimant signed the Uniform Submission Agreement: March 26, 2004.

Amended Statement of Claim filed on or about: April 1, 2004.

Statement of Answer filed by Respondents on or about: June 11, 2004.

Respondents Veravest and AI signed the Uniform Submission Agreements: April 29, 2004.

Respondent AFLIAC signed the Uniform Submission Agreement: April 29, 2004.

CASE SUMMARY

Claimant asserted the following causes of action: misrepresentation; willful and intentional fraud; breach of contract; and, vicarious liability. The causes of action relate to Claimant's former employment with Respondents and his subsequent departure.

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

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$375,000.00, representing lost income; compensatory damages in the amount of \$180,000.00, representing the loss of vesting and breach of service agreements; compensatory damages in the amount \$250,000.00 for mental and emotional anguish; compensatory damages in the amount of \$500,000.00 for tarnished reputation; and, attorneys' fees.

Respondents requested an award dismissing all of Claimant's claims.

OTHER ISSUES CONSIDERED AND DECIDED

During the evidentiary hearing on April 25, 2005, Respondents made an ore tenus motion to strike exhibits from Claimant's Memorandum of Law, to which the Claimant objected. The Panel granted said motion.

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:

Respondents are jointly and severally liable on the claims of misrepresentation, breach of contract and vicarious liability. As such, Respondents are jointly and severally liable and shall pay to Claimant compensatory damages in the amount of \$70,000.00

Respondents are jointly and severally liable and shall pay to Claimant the sum of \$500.00 representing reimbursement of the non-refundable claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Claimant's request for attorneys' fees is denied.

Any and all claims for relief not specifically addressed herein are denied.

FEEES

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 = \$ 500.00

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, Veravest f/k/a AI is a member firm and a party.

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Respondent AFLIAC is not presently a member firm of NASD. However, Respondent AFLIAC was a member firm at the time of the events giving rise to the dispute. Accordingly, the following member fees are assessed to Respondent AFLIAC:

Member surcharge	= \$2,800.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$5,000.00</u>
Total Member Fees	= \$8,550.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

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 in this matter.

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 in this matter.

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 a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: November 12, 2004 1 session	
Two (2) Pre-hearing sessions with the Panel @ \$1,200.00/session	= \$2,400.00
Pre-hearing conferences: September 29, 2004 1 session	
March 9, 2005 1 session	

Ten (10) Hearing sessions @ \$1,200.00/session = \$ 12,000.00

Hearing Dates:	February 14, 2005	2 sessions
	February 15, 2005	2 sessions
	February 16, 2005	3 sessions
	February 17, 2005	2 sessions
	April 25, 2005	1 session

Total Forum Fees = \$14,850.00

The Panel assessed the total forum fees of \$14,850.00 to Respondents, jointly and severally.

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 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 in this matter.

Fee Summary

Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 500.00
<u>Total Fees</u>	= \$ 500.00
<u>Less payments</u>	= \$ 500.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent Veravest is solely liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 8,550.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Respondent AFLIAC is solely liable for:

<u>Member Fees</u>	= \$ 8,550.00
<u>Total Fees</u>	= \$ 8,550.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 8,550.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$14,850.00
<u>Total Fees</u>	= \$14,850.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$14,850.00

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

ARBITRATION PANEL

Adam Harrison Smith, Esq.	-	Public Arbitrator, Presiding Chairperson
Randy R. Freedman, Esq.	-	Public Arbitrator
Sanford M. Naiditch	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Adam Harrison Smith, Esq.
Public Arbitrator, Presiding Chairperson

May 18, 2005
Signature Date

/s/
Randy R. Freedman, Esq.
Public Arbitrator

May 18, 2005
Signature Date

/s/
Sanford M. Naiditch
Non-Public Arbitrator

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

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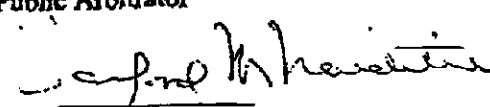
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