
Stipulated Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Bruce Konrady

Case Number: 04-03243

Names of the Respondents
FSC Securities Corporation
Robert Vanderpool

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

For Bruce Konrady, hereinafter referred to as "Claimant": Alan C. Espy, Esq., Law Offices of Alan C. Espy, P.A., Palm Beach Gardens, Florida.

For FSC Securities Corporation ("FSC") and Robert Vanderpool ("Vanderpool"), hereinafter collectively referred to as "Respondents": William Zeena, Jr., Esq. and Alan Herman, Esq., Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: May 3, 2004.

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

Statement of Answer filed by Respondents on or about: July 15, 2004.

Respondent FSC signed the Uniform Submission Agreement: June 7, 2004.

Respondent Vanderpool did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability and failure to supervise. The causes of action relate to, among other things, the purchase of an annuity contract with Manulife Financial.

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 \$150,000.00, interest, costs and attorneys' fees.

Respondents requested that the Panel enter an order dismissing all claims against them and awarding them costs and disbursements, including reasonable attorneys' fees pursuant to Chapter 57.105 of the Florida Statutes.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Vanderpool did not file with NASD Dispute Resolution ("NASD") a properly executed Uniform Submission Agreement but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code"), and having answered the claim is bound by the determination of the Panel on all issues submitted.

On or about August 9, 2005, Claimant notified NASD that this matter had settled.

On or about August 17, 2005, Claimant voluntarily dismissed Respondent Vanderpool from this case with prejudice, and further stated, in writing, the basis for the dismissal.

On or about August 19, 2005, the parties filed with NASD a Joint Motion for Entry of a Stipulated Award and a proposed Stipulated Award. The parties requested that the Panel enter a Stipulated Award expunging this matter from the NASD Central Registration Depository ("CRD") records of Respondent Vanderpool. On or about August 31, 2005, the Panel issued an Order granting Joint Motion for Entry of Award.

AWARD

After considering the pleadings, the Joint Motion for Entry of a Stipulated Award, the proposed Stipulated Award, and the record in this matter, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel finds that the Claimant dismissed Respondent Vanderpool from this arbitration with prejudice. In addition, based upon a written representation by Claimant, through his counsel, the Panel finds that the Manulife variable annuity, which was the primary investment at issue in this case, was not only a suitable investment for Claimant, but he also profited from the investment. More specifically, one of the features of the annuity was a Guaranteed Retirement Income Protection feature, pursuant to which Claimant's entire initial investment, plus a 6% annual rate of return, was guaranteed (regardless of the performance of the sub-accounts).

In view of the foregoing, and based upon Claimant's written representation, the Panel finds that the allegations in the Statement of Claim are erroneous and false, and therefore, finds that, pursuant to NASD Rule 2130, expungement is proper in this case. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Vanderpool's registration records maintained by the NASD CRD, pursuant to NASD Rule 2130, with the understanding that pursuant to NASD Notice to Member 04-16, Respondent Vanderpool must obtain confirmation from a court of competent jurisdiction before the NASD CRD will execute the expungement directive.

Unless specifically waived in writing by the NASD, parties seeking judicial confirmation of an arbitration award containing expungement relief must name NASD as an additional party and serve NASD with all appropriate documents.

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 = \$ 300.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent FSC is a member firm and a party.

Member surcharge	= \$1,700.00
Pre-hearing processing fee	= \$ 750.00
Hearing processing fee	= \$2,750.00
Total Member Fees	= \$5,200.00

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 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 the Panel @ \$1,125.00	= \$1,125.00
Pre-hearing conference: October 1, 2004 1 session	

Total Forum Fees = \$1,125.00

The Panel assessed forum fees of \$562.50 to Claimant.

The Panel assessed forum fees of \$562.50 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:

Initial Filing Fee	= \$ 300.00
<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 862.50
<u>Less payments</u>	= \$ 862.50
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent FSC is solely liable for:

<u>Member Fees</u>	= \$5,200.00
<u>Total Fees</u>	= \$5,200.00
<u>Less payments</u>	= \$5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents are jointly and severally liable for:

<u>Forum Fees</u>	= \$ 562.50
<u>Total Fees</u>	= \$ 562.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 562.50

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

ARBITRATION PANEL

Gloria O. North, Esq.	-	Public Arbitrator, Presiding Chairperson
Frank Nussbaum, Esq.	-	Public Arbitrator
Charles E. Scarlett, Esq.	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/ _____
Gloria O. North, Esq.
Public Arbitrator, Presiding Chairperson

September 6, 2005
Signature Date

/s/

Frank Nussbaum, Esq.
Public Arbitrator

September 1, 2005

Signature Date

/s/

Charles E. Scarlett, Esq.
Non-Public Arbitrator

September 6, 2005

Signature Date

September 6, 2005

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

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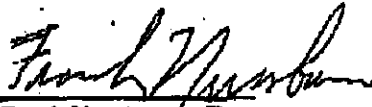
Concurring Arbitrators' Signatures

Gloria O. North
Gloria O. North, Esq.

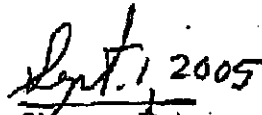
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Signature Date

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Public Arbitrator, Presiding Chairperson



Frank Nassbaum, Esq.
Public Arbitrator

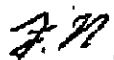


Signature Date

Charles E. Scarlett, Esq.
Non-Public Arbitrator

Signature Date

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Charles B. Scarlett, Esq.
Industry Arbitrator

9/6/05

Signature Date

Frank Nussbaum, Esq.
Public Arbitrator

Signature Date