
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant

Patrick A. Weeks

Case Number: 04-04008

Names of the Respondents

American General Securities, Inc.

Leroy Jack Smith

Hearing Site: New Orleans, Louisiana

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

REPRESENTATION OF PARTIES

For Patrick A. Weeks ("Weeks"), hereinafter referred to as "Claimant": George W. Healy, IV, Esq., George W. Healy, IV & Associates, Gulfport, Mississippi.

For American General Securities, Inc. ("AGSI"), hereinafter referred to as "Respondent AGSI": John N. Bolus, Esq. and Kip A. Nesmith, Esq., Maynard, Cooper & Gale, P.C., Birmingham, Alabama.

For Leroy Jack Smith ("Smith"), hereinafter referred to as "Respondent Smith": E. Britton Monroe, Esq. and Mickey B. Wright, Esq., Lloyd, Gray & Whitehead, P.C., Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: June 4, 2004.

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

Statement of Answer filed by Respondent AGSI on or about: July 29, 2004.

Respondent AGSI signed the Uniform Submission Agreement: July 27, 2004.

Statement of Answer filed by Respondent Smith on or about: July 28, 2004.

Respondent Smith signed the Uniform Submission Agreement: July 28, 2004.

Motion for Summary Judgment filed by Respondent Smith on or about: April 11, 2005.

Motion for Summary Judgment or in the alternative Motion to Strike filed by Respondent AGSI on or about: April 11, 2005.

Opposition to Respondent Smith's Motion for Summary Judgment and Opposition to Respondent AGSI's Motion for Summary Judgment or in the alternative Motion to Strike filed by Claimant on or about: April 21, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: fraudulent inducement; misrepresentation and omission of facts; unsuitability; violation of NYSE Rule 405, know your customer; failure to diversify; breach of fiduciary duty; negligent supervision; aiding and abetting; negligence; breach of contract; unjust enrichment; and, violation of NASD Rule 2210. The causes of action relate to, among other things, the purchase of Putnam VT Voyager and Putnam VT Growth and Income sub-accounts in variable annuities.

Unless specifically admitted in its Answer, Respondent AGSI denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Unless specifically admitted in its Answer, Respondent Smith denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

Respondent Smith did not delineate a specific relief request.

RELIEF REQUESTED

Claimant requested rescissionary or, in the alternative, compensatory damages in the amount of \$112,372.00; unspecified compensatory damages for loss of investment opportunity; punitive damages in the amount of \$500,000.00; pre-award and post-award interest at the maximum rate allowed by law; costs and expenses, including reasonable consulting fees and expert witness fees; and, attorneys' fees.

Respondent AGSI requested that the Statement of Claim be dismissed in its entirety, and that all costs and forum fees be assessed against Claimant, together with such other and further relief as the Panel deemed just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about May 18, 2005, the Panel issued an Order that denied Respondent AGSI's motion to strike and granted, in part, Respondents' respective motions for summary judgment by dismissing Claimant's cause of action for violation of rules promulgated by self-regulatory organizations, including the New York Stock Exchange and the NASD. The Panel denied the remainder of Respondents' motions for summary judgment, stating that genuine issues of material fact and/or ambiguities concerning applicable law exist.

During the evidentiary hearing, Respondents made the following ore tenus motions: 3 Motions in Limine to Exclude Evidence; Re-urged Motions for Summary Judgment; Motion for Judgment As Matter of Law; and Motion to Strike Exhibits. The Panel denied all but the Motion in Limine to Exclude Testimony and Related Documents.

The parties 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 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 and shall pay to Claimant compensatory damages in the amount of \$56,000.00, plus interest at the Mississippi statutory rate from June 4, 2004, until the date of payment of the Award.

Respondents are jointly and severally liable and shall pay to Claimant the sum of \$375.00 representing reimbursement of the claim filing fee previously paid by Claimant to NASD Dispute Resolution.

Any and all claims for relief not specifically addressed herein, including Claimant's request for punitive damages and attorneys' fees, are denied.

FEES

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	= \$ 375.00
--------------------------	-------------

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 AGSI is a member firm and a party.

Member surcharge	= \$2,250.00
Pre-hearing process fee	= \$ 750.00
<u>Hearing process fee</u>	<u>= \$4,000.00</u>
Total Member Fees	= \$7,000.00

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:

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences: October 19, 2004 1 session	
May 11, 2005 1 session	
Seven (7) Hearing sessions @ \$1,200.00	= \$ 8,400.00
Hearing Dates: May 31, 2005 2 sessions	
June 1, 2005 2 sessions	
June 2, 2005 2 sessions	
June 3, 2005 1 session	
Total Forum Fees	= \$10,800.00

The Panel assessed the total forum fees of \$10,800.00 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:

Initial Filing Fee	= \$ 375.00
Total Fees	= \$ 375.00
Less payments	= \$ 375.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent AGSI is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents AGSI and Smith are jointly and severally liable for:

Forum Fees	= \$10,800.00
Total Fees	= \$10,800.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$10,800.00

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

ARBITRATION PANEL

Thomas J. Fischer, Esq.	-	Public Arbitrator, Presiding Chairperson
Kendall P. Hill	-	Public Arbitrator
Timothy B. Alack	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/
Thomas J. Fischer, Esq.
Public Arbitrator, Presiding Chairperson

June 9, 2005
Signature Date

/s/
Kendall P. Hill
Public Arbitrator

June 8, 2005
Signature Date

/s/
Timothy B. Alack
Non-Public Arbitrator

June 9, 2005
Signature Date


June 9, 2005
Date of Service (For NASD Dispute Resolution office use only)

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

ARBITRATION PANEL

Thomas J. Fischer, Esq.	-	Public Arbitrator, Presiding Chairperson
Kendall P. Hill	-	Public Arbitrator
Timothy B. Alack	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures


Thomas J. Fischer, Esq.
Public Arbitrator, Presiding Chairperson

6/9/05
Signature Date

Kendall P. Hill
Public Arbitrator

Signature Date

Timothy B. Alack
Non-Public Arbitrator

Signature Date

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

NASD Dispute Resolution

Arbitration No. 04-04008

Award Page 5 of 5

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

ARBITRATION PANEL

Thomas J. Fischer, Esq.	-	Public Arbitrator, Presiding Chairperson
Kendall P. Hill	-	Public Arbitrator
Timothy B. Alack	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Thomas J. Fischer, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Kendall P Hill

Kendall P. Hill
Public Arbitrator

6/8/05
Signature Date

Timothy B. Alack
Non-Public Arbitrator

Signature Date

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

Arbitration No. 04-04008

Award Page 5 of 5

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

ARBITRATION PANEL

Thomas J. Fischer, Esq.	-	Public Arbitrator, Presiding Chairperson
Kendall P. Hill	-	Public Arbitrator
Timothy B. Alack	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Thomas J. Fischer, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Kendall P. Hill
Public Arbitrator

Signature Date



Timothy B. Alack
Non-Public Arbitrator

6-9-05

Signature Date

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