

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Fred I. Johnson

and

Case Number: 04-04704
Hearing Site: Louisville, Kentucky

Names of Respondents

Questar Capital Corp.,
and Thomas J. Gorter

NATURE OF DISPUTE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Fred I. Johnson ("Johnson" or "Claimant") was represented by Schuyler J. Olt, Esq., Pedley Zielke Gordinier & Pence, PLLC, Louisville, Kentucky.

Questar Capital Corp. ("Questar") and Thomas J. Gorter ("Gorter"), hereinafter to as "Respondents," were represented by Paul A. Bechtel, Esq. and Samuel E. Cohen, Esq., Marshall, Dennehey, Warner, Coleman & Goggin, Philadelphia, Pennsylvania.

CASE INFORMATION

The Statement of Claim was filed on or about June 30, 2004. The Submission Agreement of Claimant was signed on or about June 23, 2004.

A Motion to Dismiss, or, in the Alternative, for a More Specific Statement of Claim was filed jointly by Respondents on or about November 3, 2004. The Submission Agreement of Questar was signed on or about October 27, 2004. The Submission Agreement of Gorter was signed on or about November 1, 2004.

Respondents' Renewed Motion to Compel Responses to Discovery Requests, Motion for Sanctions, and, in the Alternative, Motion to Dismiss Arbitration for Claimant's Flagrant Refusal to Comply with Discovery was filed on or about April 20, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: violation of Rule 10b of the Securities Exchange Commission; violation of Title 18 of the U.S. Code and Chapter 292 of the Kentucky Revised Statutes; and unsuitability. Claimant alleged that Respondents misrepresented the internal and external costs of purchasing variable annuity products and that Gorman falsely represented that he was the Claimant.

Respondents filed a Motion to Dismiss, or, in the Alternative, for a More Specific Statement of Claim in response to the Claimant's Statement of Claim, which stated that the Claimant had signed the annuity contracts and that he was aware of the fees and charges incurred. Respondents also stated that the Claimant's Statement of Claim was both vague and limited in information.

RELIEF REQUESTED

Claimant requested an award in the amount of \$53,140.87 in compensatory damages, plus punitive damages, interest, costs, attorneys' fees and such other relief the panel deemed just and proper.

Respondents requested that the panel dismiss the Statement of Claim and expunge it from the NASD records, or in the alternative, issue an Order compelling Claimant's counsel to file a more specific Statement of Claim.

OTHER ISSUES CONSIDERED & DECIDED

On or about April 21, 2005, the Chairperson entered a Discovery Order on behalf of the panel, that ordered Claimant to submit by April 21, 2005 complete responses to Respondents' Request for Production of Documents.

On or about May 11, 2005, the Chairperson on behalf of the panel, entered a Discovery Order which ordered Claimant to provide by May 23, 2005 full and complete responses to Respondents' discovery requests. The panel ruled that Claimant's failure to comply would result in sanctions, which may include fiscal penalties, Respondent's attorneys' fees, barring evidence related to discovery, loss of claims, or dismissal.

On or about July 8, 2005, the Chairperson entered a Discovery Order on behalf of the panel, which ordered Respondents to prepare an itemization of all attorney and paralegal fees, including an affidavit of the responsible attorney in Respondents' law firm, and further ordered that Claimant furnish all discovery requested within 5 days.

On or about July 27, 2005, the Chairperson, on behalf of the panel, entered the following Order for failure to comply with the panel's previous discovery orders:

Claimant, shall pay to the order of Marshall, Dennehy, Warner, Coleman & Goggin, the amount of One Thousand Six Hundred Twenty Eight and No/100 Dollars (\$1,628.00), within ten (10) days of his counsel's receipt of this order to pay fees; Claimant's failure to comply in full with this order will result in further sanctions, up to including dismissal of his arbitration claim; Respondents' Renewed Motion to Dismiss is deferred; and the cost of this order shall be borne by Claimant.

During the conference call on or about August 19, 2005, the panel was made aware of Claimant's non-compliance with the panel's previous order of July 27, 2005. The panel ordered Claimant to produce and deliver the following to the Respondents' law offices:

A cashiers check in the amount of \$1,628.00 made payable to the order of Marshall, Dennehey, Warner, Coleman & Goggin by August 23, 2005 as previously ordered for discovery abuses; complete copies of Claimant's outstanding federal income tax returns; and Claimant shall pay all related NASD fees, and further requested that Claimant provide all tax returns with schedules from 1996-2003 to Respondent by September 17, 2005. This order contained another warning of dismissal.

Respondents filed a Motion to Dismiss this claim on September 20, 2005 due to the Claimant's failure to meet the deadline imposed by the Chairperson previous orders. Claimant's Response to Respondents' Motion to Dismiss was filed on or about September 27, 2005. The panel grants Respondents' Motion to Dismiss herein.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

After considering the pleadings, the arguments at the pre-hearing conferences and all orders entered herein, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims, each and all, are dismissed in their entirety with prejudice pursuant to Rule 10305(b) of the NASD Code of Arbitration Procedure;
- 2) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 3) Any relief not specifically enumerated, including punitive damages and attorney fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee 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. In this matter, the member firm is Questar Capital Corp.

Member surcharge = \$1,100.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$1,700.00

Forum Fees and Assessments

The Arbitration Panel assesses forum fees for each hearing session conducted. A hearing 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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00	= \$ 900.00
Pre-hearing conferences: April 8, 2005	1 session
April 20, 2005	1 session
Two (2) Pre-hearing sessions with Panel x \$750.00	= \$1,500.00
Pre-hearing conferences: February 15, 2005	1 session
August 19, 2005	1 session
Total Forum Fees	= \$2,400.00

The Arbitration Panel has assessed \$2,400.00 of the forum fees to Fred I. Johnson.

Fee Summary

Claimant, Fred I. Johnson, is liable for:

Initial Filing Fee = \$ 225.00
Adjournment Fee = \$ 750.00

Forum Fees	= \$2,400.00
Total Fees	= \$3,375.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$2,400.00

Respondent, Questar Capital Corp., is liable for:

Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 4,450.00
Refund due to Questar	= \$ 950.00

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

ARBITRATION PANEL

Daniel Thomas Burns, Esq. - Public, Presiding Chair
Richard B. Lewis - Public Arbitrator
Stuart S. Billington - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Daniel Thomas Burns, Esq.
Daniel Thomas Burns, Esq.
Public Arbitrator, Presiding Chair

10/04/05
Signature Date

/s/ Richard B. Lewis
Richard B. Lewis
Public Arbitrator

10/04/05
Signature Date

/s/ Stuart S. Billington
Stuart S. Billington
Non-Public Arbitrator

10/03/05
Signature Date

10/04/05
Date of Service (For NASD office use only)

Forum Fees	= \$2,400.00
Total Fees	= \$3,375.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$2,400.00

Respondent, Questar Capital Corp., is liable for:

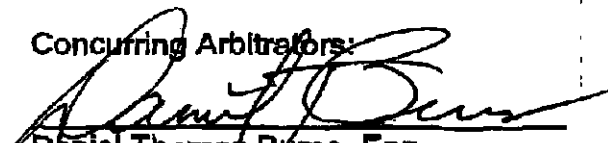
Member Fees	= \$ 3,550.00
Total Fees	= \$ 3,550.00
Less payments	= \$ 4,450.00
Refund due to Questar	= \$ 950.00

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

ARBITRATION PANEL

Daniel Thomas Burns, Esq. - Public, Presiding Chair
Richard B. Lewis - Public Arbitrator
Stuart S. Billington - Non-Public Arbitrator

Concurring Arbitrators:


Daniel Thomas Burns, Esq.
Public Arbitrator, Presiding Chair

10/4/05
Signature Date

Richard B. Lewis
Public Arbitrator

Signature Date

Stuart S. Billington
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Less payments	= \$ 975.00
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Richard B. Lewis - Public Arbitrator
Stuart S. Billington - Non-Public Arbitrator

Concurring Arbitrators:

Daniel Thomas Burns, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Richard B. Lewis
Public Arbitrator

10-04-05
Signature Date

Stuart S. Billington
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

Forum Fees	= \$2,400.00
Total Fees	= \$3,375.00
Less payments	= \$ 875.00
Balance Due NASD Dispute Resolution	= \$2,400.00

Respondent, Questar Capital Corp., is liable for:	= \$ 3,550.00
Member Fees	= \$ 3,550.00
Total Fees	= \$ 4,450.00
Less payments	= \$ 950.00
Refund due to Questar	

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ARBITRATION PANEL

Daniel Thomas Burns, Esq. - Public, Presiding Chair
Richard B. Lewis - Public Arbitrator
Stuart S. Billington - Non-Public Arbitrator

Concurring Arbitrators:

Daniel Thomas Burns, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Richard B. Lewis
Public Arbitrator

Signature Date

Stuart S. Billington
Non-Public Arbitrator

OCT. 3, 2005
Signature Date

Date of Service (For NASD office use only)