
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Diane C. Richards

Case Number: 04-05483

Names of the Respondents
Allmerica Financial Life Insurance and Annuity Company
and James E. Tyrell, II

Hearing Site: Boca Raton, Florida

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

REPRESENTATION OF PARTIES

Diane C. Richards hereinafter referred to as "Claimant" appeared pro se.

For Respondent Allmerica Financial Life Insurance and Annuity Company, ("Allmerica"):
Heather A. Lacey, Esq., Manchel & Brennan, P.C., Newton, Massachusetts.

For Respondent James E. Tyrell, II ("Tyrell"): Robert L. Hirtle, Esq., Rogin, Nassau, Caplan,
Lassman & Hirtle, LLC, Hartford, Connecticut.

CASE INFORMATION

Statement of Claim filed on or about: August 2, 2004.

Claimant signed the Uniform Submission Agreement: July 28, 2004.

Respondent Allmerica signed the Uniform Submission Agreement: September 30, 2004.

Respondent Tyrell signed the Uniform Submission Agreement: October 7, 2004.

Statement of Answer filed by Respondent Tyrell on or about: October 8, 2004.

Respondent Allmerica did not file a Statement of Answer.

CASE SUMMARY

Claimant asserted that Respondent Tyrell violated the Florida Insurance Statutes by engaging in "twisting" and untruthfully advising that her variable annuity investment was at risk. Claimant further asserted that Respondent Tyrell never provided specifics regarding the tax or IRS penalty implications of her investment and that the handling of her investment appeared to be designed for the benefit of Respondents Allmerica and Tyrell. The causes of action relate to the liquidation of Claimant's non-qualified annuity and transfer of the funds to a money market account.

Unless specifically admitted in his Answer, Respondent Tyrell denied the allegations made in the Statement of Claim and asserted various defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$21,981.68.

Respondent Tyrell requested dismissal of the Statement of Claim, attorney's fees, costs, and such other legal and equitable relief as the Arbitrator deemed necessary and proper.

OTHER ISSUES CONSIDERED AND DECIDED

On or about November 8, 2004, prior to the appointment of the Arbitrator in this matter, Claimant filed with NASD Dispute Resolution a notice dismissing Respondent Allmerica with prejudice.

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claims against Respondent Tyrell are dismissed in their entirety.

Any and all claims for relief not specifically addressed herein, including Respondent Tyrell's request for attorney's 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 = \$125.00

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 at the time of the events giving rise to the dispute.

No member fees were incurred in this matter.

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

June 14-15, 2005 postponement requested by Claimant = \$ 450.00

The Arbitrator waived the total adjournment fee of \$450.00.

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

Three (3) Pre-hearing sessions with Arbitrator @ \$450.00/session = \$1,350.00

Pre-hearing conferences: February 2, 2005	1 session
May 23, 2005	1 session
May 26, 2005	1 session

One (1) Hearing session with Arbitrator @ \$450.00/session = \$ 450.00

Hearing Date: June 27, 2005	1 session
-----------------------------	-----------

Total Forum Fees	= \$ 1,800.00
------------------	---------------

The Arbitrator has assessed \$1,800.00 of the forum fees to Claimant.

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 are 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	= \$ 125.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 1,925.00
Less payments	= \$ 575.00
Balance Due NASD Dispute Resolution	= \$ 1,350.00

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

ARBITRATOR

Norman L. Weiss - Public Arbitrator, Presiding Chairperson

Arbitrator's Signature

/s/

06/30/2005

Norman L. Weiss
Public Arbitrator, Presiding Chairperson

Signature Date

06/30/2005

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

NASD Dispute Resolution
Arbitration No. 04-05483
Award Page 4

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 1,800.00
Total Fees	= \$ 1,925.00
Less payments	= \$ 575.00
Balance Due NASD Dispute Resolution	= \$ 1,350.00

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

ARBITRATOR

Norman L. Weiss - Public Arbitrator, Presiding Chairperson

Arbitrator's Signature



Norman L. Weiss
Public Arbitrator, Presiding Chairperson

June 30, 2008
Signature Date

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