

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Lynda Woods Cleary (Claimant) v. USAllianz Securities, Inc. (Respondent)

Case Number: 05-00447

Hearing Site: Newark, New Jersey

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Nature of the Dispute: Associated Person vs. Member

**REPRESENTATION OF PARTIES**

Claimant Lynda Woods Cleary ("Cleary") hereinafter referred to as "Claimant" appeared *pro se*.

Respondent USAllianz Securities, Inc. ("USAllianz") hereinafter referred to as "Respondent":  
Daniel Oberdorfer, Esq., Leonard Street and Deinard, Minneapolis, MN.

**CASE INFORMATION**

Statement of Claim filed on or about: January 27, 2005

Claimant signed the Uniform Submission Agreement: February 11, 2005

Statement of Answer filed by Respondent on or about: April 6, 2005

Respondent signed the Uniform Submission Agreement: April 5, 2005

**CASE SUMMARY**

Claimant asserted the following causes of action: wrongful termination; libel/slander on Form U-5; age discrimination; race discrimination and gender discrimination.

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

**RELIEF REQUESTED**

Claimant requested unspecified compensatory damages; attorney's fees; costs, expungement of her Form U-5, declaratory judgment that Claimant's employment was wrongfully terminated, and other relief as the Panel deems appropriate.

Respondent requested dismissal of the Statement of Claim, award of its attorney's fees, costs and disbursements.

### **OTHER ISSUES CONSIDERED AND DECIDED**

After Arbitrator Lucas Ferrara withdrew from the Panel in this matter, the parties notified us by letter dated July 27, 2005 that, in accordance with Rule 10313 of the Code, they agreed to proceed with the remaining two arbitrators.

By letter dated August 18, 2005 the parties were advised that the Panel reviewed all submissions and considered all oral arguments regarding Respondent's Motion to Dismiss and determined to dismiss Claimant's discrimination claims. The hearing in this proceeded solely with respect to Claimant's defamation claim.

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.

### **AWARD**

After considering the pleadings, 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:

1. Claimant's claims are denied in their entirety.
2. Any and all relief not specifically addressed herein is denied.

### **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	= \$250.00
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#### **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, USAllianz is a party.

Member surcharge	= \$1,500.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,200.00

#### **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:

Three (3) Pre-hearing sessions with Panel @ \$1,000.00 = \$3,000.00

Pre-hearing conferences:      June 21, 2005      1 session  
   August 17, 2005      1 session  
   October 14, 2005      1 session

Four (4) Hearing sessions @ \$1,000.00 = \$4,000.00

Hearing Dates:      October 17, 2005      2 sessions  
   October 18, 2005      2 sessions

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Total Forum Fees = \$7,000.00

1. The Panel has assessed \$7,000.00 of the forum fees to Claimant.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 250.00
Forum Fees	= \$7,000.00
<hr/> Total Fees	<hr/> = \$7,250.00
Less payments	= \$1,250.00
Balance Due NASD Dispute Resolution	= \$6,000.00

2. Respondent is solely liable for:

Member Fees	= \$4,450.00
<hr/> Total Fees	<hr/> = \$4,450.00
Less payments	= \$4,450.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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

**ARBITRATION PANEL**

Howard Breindel, Esq.  
Robert S. Getman, Esq.

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Public Arbitrator, Presiding Chairperson

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Public Arbitrator

**Concurring Arbitrators' Signatures**



Howard Breindel, Esq.  
Public Arbitrator, Presiding Chairperson

10/20/05

Signature Date

Robert S. Getman, Esq.  
Public Arbitrator

Signature Date

October 24, 2005

Date of Service (For NASD Dispute Resolution use only)

**ARBITRATION PANEL**

Howard Breindel, Esq.  
Robert S. Getman, Esq.

Public Arbitrator, Presiding Chairperson  
Public Arbitrator

**Concurring Arbitrators' Signatures**

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Howard Breindel, Esq.  
Public Arbitrator, Presiding Chairperson

\_\_\_\_\_  
Signature Date



Robert S. Getman, Esq.  
Public Arbitrator

  
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Signature Date

  
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