

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Alice Kelly, Pearl Daniels and Phyllis Crank ("Claimants") v. Gilbert C. Varnes, Jr., USAllianz Securities, Inc., f/k/a LifeUSA Securities, Inc. ("Respondents")

Case Number: 05-00449

Hearing Site: Newark, New Jersey

Nature of the Dispute: Customers v. Member and Associated Person

REPRESENTATION OF PARTIES

Claimants Alice Kelly ("Kelly"), Pearl Daniels ("Daniels"), and Phyllis Crank ("Crank") hereinafter collectively referred to as "Claimants": Carole K. Boyd, Esq., Law Office of Carole K. Boyd, Medina, TX.

Respondent USAllianz Securities, Inc., f/k/a LifeUSA Securities, Inc. ("USAllianz"): Monica L. Davies, Esq., Leonard Street & Deinard, Minneapolis, MN.

Respondent Gilbert C. Varnes, Jr. ("Varnes"): Sheldon M. Finkelstein, Esq., Podvey, Meanor, Catenacci, Hildner, Coccoziello & Chattman, Newark, NJ.

CASE INFORMATION

Statement of Claim filed on or about: January 26, 2005.

Consolidated Statement of Claims filed on or about: March 5, 2005.

Kelly signed the Uniform Submission Agreement: January 16, 2005.

Daniels signed the Uniform Submission Agreement: January 17, 2005.

Crank signed the Uniform Submission Agreement: February 24, 2005.

Statement of Answer filed by Varnes on or about: March 24, 2005.

Varnes signed the Uniform Submission Agreement: March 14, 2005.

Statement of Answer filed by USAllianz on or about: March 21, 2005.

Answer to the Consolidated Statement of Claims filed by USAllianz on or about: April 22, 2005.

USAllianz signed the Uniform Submission Agreement: February 2, 2005.

CASE SUMMARY

Claimants asserted the following causes of action in the Statement of Claim: breach of contract; negligence; failure to supervise; breach of fiduciary duty; suitability; churning; misrepresentations and manipulations. The causes of action relate to mutual funds.

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

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

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$150,682.00, return of fees paid to Respondent Varnes, arbitration fees, attorneys' fees and other related costs.

Respondent Varnes requested that the Statement of Claim be dismissed in its entirety and requested reimbursement of counsel fees and costs incurred in defending this arbitration.

Respondent USAllianz requested that the Statement of Claim be dismissed with prejudice and such other and further relief as the Panel deems just and proper, including costs and attorneys' fees.

OTHER ISSUES CONSIDERED AND DECIDED

By letter dated September 15, 2005, Claimants notified NASD Dispute Resolution that they settled their claims against Respondent USAllianz.

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 dismissed 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 = \$ 300.00

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 persons at the time of the events giving rise to the dispute. Accordingly, Respondent USAllianz Securities, Inc., was a party.

Member surcharge = \$ 1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,750.00

Total Member Fees = \$ 5,200.00

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:

One (1) Pre-hearing session with Panel @ \$1,125.00 per session = \$ 1,125.00

Pre-hearing conference: May 26, 2005 1 session

Twelve (12) Hearing sessions @ \$1,125.00 per session = \$ 13,500.00

Hearing Dates: September 27, 2005 2 sessions

September 28, 2005 2 sessions

September 29, 2005 2 sessions

November 29, 2005 2 sessions

November 30, 2005 2 sessions

December 1, 2005 2 sessions

Total Forum Fees = \$ 14,625.00

1. The Panel has assessed \$7,312.50 of the forum fees jointly and severally against Claimants.
2. The Panel has assessed \$7,312.50 of the forum fees against Respondent Varnes.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee = \$ 300.00

Forum Fees = \$ 7,312.50

Total Fees = \$ 7,612.50

Less payments = \$ 1,750.00

Balance Due NASD Dispute Resolution = \$ 5,862.50

2. Respondent USAllianz is solely liable for:

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

3. Respondent Varnes is solely liable for:

<u>Forum Fees</u>	= \$ 7,312.50
Total Fees	= \$ 7,312.50
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 7,312.50

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

ARBITRATION PANEL

David I. Goldblatt, Esq.	-	Public Arbitrator, Presiding Chairperson
Jack Friedman, Esq.	-	Public Arbitrator
Chris P. Drucker	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



David I. Goldblatt, Esq.
Public Arbitrator, Presiding Chairperson

12/9/05
Signature Date

Jack Friedman, Esq.
Public Arbitrator

Signature Date

Chris P. Drucker
Non-Public Arbitrator

Signature Date

December 15, 2005
Date of Service (For NASD Dispute Resolution use only)

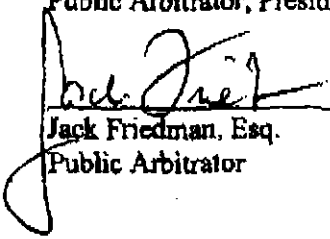
ARBITRATION PANEL

David I. Goldblatt, Esq.	-	Public Arbitrator, Presiding Chairperson
Jack Friedman, Esq.	-	Public Arbitrator
Chris P. Drucker	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

David I. Goldblatt, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date



Jack Friedman, Esq.
Public Arbitrator

Dec. 9, 2005

Signature Date

Chris P. Drucker
Non-Public Arbitrator

Signature Date

December 15, 2005

Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

David I. Goldblatt, Esq.	-	Public Arbitrator, Presiding Chairperson
Jack Friedman, Esq.	-	Public Arbitrator
Chris P. Drucker	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

David I. Goldblatt, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Jack Friedman, Esq.
Public Arbitrator

Signature Date

Chris P. Drucker

Chris P. Drucker
Non-Public Arbitrator

12-12-05
Signature Date

December 15, 2005
Date of Service (For NASD Dispute Resolution use only)