

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Patty F. Haas (Claimant) vs. J.J.B. Hilliard, W.L. Lyons, Inc. (Respondent)

Case Number: 05-00535

Hearing Site: Columbus, Ohio

Nature of the Dispute: Customer vs. Member

REPRESENTATION OF PARTIES

Claimant Patty F. Haas hereinafter referred to as "Claimant": Leslie P. Poole, Esq. and John S. Anderson, Esq., Bellows and Bellows, P.C., Chicago, IL. Previously represented by Connie S. Pike, Esq., Bellows and Bellows, P.C., Chicago, IL.

Respondent J.J. B. Hilliard, W.L. Lyons, Inc. hereinafter referred to as "Respondent": Elizabeth M. DeRienzo, Esq., and Elin B. Young, Esq., Ulmer & Berne LLP, Cleveland, OH.

CASE INFORMATION

Statement of Claim filed on or about: January 28, 2005.

Claimant signed the Uniform Submission Agreement: January 20, 2005.

Statement of Answer and Motion to Dismiss filed by Respondent on or about: May 2, 2005.

Respondent signed the Uniform Submission Agreement: February 7, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach fiduciary duty, breach of contract, violations of the West Virginia Deceptive Trade Practices Act, violations of the Securities Exchange Act, violation of the West Virginia Securities Act and violation of common law causes of action in Tort law. The causes of action relate to variable annuities in Claimant's IRA account.

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 compensatory damages in the amount of \$60,251.14 which represents losses suffered as a result of unsuitable investment, \$7,000.00 which is the result of unnecessary income tax paid as a result of the distributions, the present value (approximately an additional

\$5,000.00) of all income tax payments that were made during the years 2000 through 2003, that would have otherwise been deferred for a period of at least ten years, plus all IRC 72(t) penalties, the surrender penalties due at the date of the award so that Claimant can surrender the fixed-rate annuity, statutory interest and fees, rescission of the original annuity contract, specifically, the return of the initial investment of \$161,038.08, punitive damages, costs, reasonable attorney's fees and any further and additional relief the Panel believes is just and equitable.

Respondent requested dismissal of the claim in its entirety and all costs to be assessed against Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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. Respondent is liable for and shall pay to Claimant compensatory damages in the amount of \$80,000.00.
2. Any and all relief not specifically addressed herein, including punitive damages, 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 firm that employed the associated person at the time of the event giving rise to the dispute. Accordingly, J.J. B Hilliard, W.L. Lyons, Inc. is a party.

Member surcharge	= \$1,700.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$2,750.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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 a single arbitrator @ \$450.00/session	= \$ 450.00
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Pre-hearing conference:	March 24, 2006	1 session	
Two (2) Pre-hearing sessions with Panel @ \$1,125.00/session			= \$ 2,250.00
Pre-hearing conferences:	July 6, 2005	1 session	
	August 23, 2005	1 session	
Five (5) Hearing sessions with Panel @ \$1,125.00/session			= \$ 5,625.00
Hearing Dates:	March 28, 2006	2 sessions	
	March 29, 2006	3 sessions	
Total Forum Fees			= \$ 7,875.00

1. The Panel has assessed \$7,875.00 of the forum fees to Respondent.

Fee Summary

1. Claimant is solely liable for:

<u>Initial Filing Fee</u>	= \$ 300.00
<u>Total Fees</u>	= \$ 300.00
<u>Less payments</u>	= \$ 1,425.00
Refund Due Claimant	= \$ 1,125.00

2. Respondent J.J.B. Hilliard, W.L. Lyons, Inc. is solely liable for:

Member Fees	= \$ 5,200.00
<u>Forum Fees</u>	= \$ 7,875.00
<u>Total Fees</u>	= \$13,075.00
<u>Less payments</u>	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 7,875.00

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

ARBITRATION PANEL

Benjamin B. Segel, Esq.	-	Public Arbitrator, Presiding Chairperson
Kenneth R. Cookson, Esq.	-	Public Arbitrator
Matthew Watson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Benjamin B. Segel, Esq.
Public Arbitrator, Presiding Chairperson

4/21/06
Signature Date

Kenneth R. Cookson, Esq.
Public Arbitrator

Signature Date

Matthew Watson
Non-Public Arbitrator

Signature Date

April 21, 2006
Date of Service (For NASD Dispute Resolution use only)

ARBITRATION PANEL

Benjamin B. Segel, Esq.	-	Public Arbitrator, Presiding Chairperson
Kenneth R. Cookson, Esq.	-	Public Arbitrator
Matthew Watson	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

Benjamin B. Segel, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

- 
Kenneth R. Cookson, Esq.
Public Arbitrator

April 19, 2006
Signature Date

Matthew Watson
Non-Public Arbitrator

Signature Date

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