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

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In the Matter of the Arbitration Between:

Names of the Claimants

Doyle Miller  
Clayton Parker  
Jerry Preuit  
Onnis Terry  
Don White  
Richard Dubbs

Case Number: 06-00112

Names of the Respondents

Avalon Investment & Securities Group, Inc.  
Allmerica Financial Life Insurance and Annuity Company  
William J. Bohannon

Hearing Site: Birmingham, Alabama

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

**REPRESENTATION OF PARTIES**

For Doyle Miller ("Miller"), Clayton Parker ("Parker"), Jerry Preuit ("Preuit"), Onnis Terry ("Terry"), Don White ("White") and Richard Dubbs ("Dubbs"), hereinafter collectively referred to as "Claimants": Richard S. Frankowski, Esq., Whatley Drake, LLC., Birmingham, Alabama.

For Respondent Avalon Investment & Securities Group, Inc. ("Avalon"): Ken Cantrell and Neil Morris, Avalon Investment & Securities Group, Inc., Muscle Shoals, Alabama, appeared as its representatives.

For Respondent William J. Bohannon ("Bohannon"): Neil Morris, Avalon Investment & Securities Group, Inc., Muscle Shoals, Alabama, appeared as his representative.

For Allmerica Financial Life Insurance and Annuity Company ("Allmerica"): Daniel B. Trinkle, Esq., Manchel & Brennan, P.C., Newton, Massachusetts.

**CASE INFORMATION**

Statement of Claim filed on or about: January 6, 2006.  
Claimant Miller signed the Uniform Submission Agreement: January 17, 2006.  
Claimant Parker signed the Uniform Submission Agreement: September 14, 2005.  
Claimant Preuit signed the Uniform Submission Agreement: September 1, 2005.  
Claimant Terry signed the Uniform Submission Agreement: September 20, 2005.  
Claimant White signed the Uniform Submission Agreement: September 10, 2005.  
Claimant Dubbs signed the Uniform Submission Agreement: December 2, 2005.

Statement of Answer filed by Respondents Avalon and Bohannon on or about: April 14, 2006.  
Respondent Avalon signed the Uniform Submission Agreement: May 25, 2006.  
Respondent Bohannon signed the Uniform Submission Agreement: May 22, 2006.  
Respondent Allmerica did not file a Statement of Answer or a signed Uniform Submission Agreement.  
Motion to Dismiss filed by Respondents Avalon and Bohannon on or about: April 14, 2006.  
Response to Motion to Dismiss filed by Claimants on or about: May 5, 2006.  
Motion to Dismiss Specific Claimants filed by Respondents Avalon and Bohannon on or about: August 1, 2006.  
Opposition to Motion to Dismiss Specific Claimants filed by Claimants on or about: August 18, 2006.  
Emergency Motion for Sanctions filed by Respondents Avalon and Bohannon on or about: September 18, 2006.  
Response to Emergency Motion for Sanctions filed by Claimants on or about: September 22, 2006.

### **CASE SUMMARY**

Claimants asserted the following causes of action: 1) breach of fiduciary duty; 2) breach of contract; 3) common law fraud; 4) negligence; 5) negligent misrepresentation/omission; 6) failure to supervise and control; and, 7) violation of federal and state securities laws and NASD Rules of Fair Practice. The causes of action relate to the purchase of various variable annuities including, but not limited to, Pioneer Vision, in Claimants' accounts.

Unless specifically admitted in their Answer, Respondents Avalon and Bohannon denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

Claimants requested compensatory damages in the amount of \$1,000,000.00, consequential damages, disgorgement and restitution of all earnings, profits, compensation and benefits received by Respondents, lost opportunity costs, costs of proceeding, attorney's fees and costs, pre-and post-judgment interest, punitive damages, rescission and such other relief as the Panel deemed just and equitable.

Respondents Avalon and Bohannon requested that they be awarded all of their expenses incurred in defending this action.

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

Respondent Allmerica did not file with NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to the NASD Code of Arbitration Procedure (the "Code") and is bound by the determination of the Panel on all issues submitted.

On or about March 14, 2006, Claimants filed a Notice of Dismissal, without prejudice, of all claims against Respondent Allmerica.

On or about May 22, 2006, the Panel issued an Order that denied, without prejudice, Respondents Avalon and Bohannon's Motion to Dismiss.

On or about September 12, 2006, the Panel issued an Order that denied, with prejudice, Respondents Avalon and Bohannon's Motion to Dismiss Specific Claimants.

On or about September 29, 2006, the Panel issued an Order that deferred ruling on Respondents Avalon and Bohannon's Emergency Motion for Sanctions until the final hearings for this matter.

At the final hearings for this matter, the Panel was informed that Claimant Miller had withdrawn all his claims against Respondents. In addition, the Panel denied Respondents' Motion for Sanctions.

The parties have agreed that the Award in this matter may be entered in counterpart copies or that a signed handwritten 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:

Respondents are found not liable and all of Claimants' claims are denied in their entirety.

Respondents' request, in their Statement of Answer, for a personal judgment against Claimants, individually, for all their expenses incurred in defending this action, is denied.

Any and all claims for relief not specifically addressed herein, including Claimants' requests for attorney's fees and punitive damages, are 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	= \$ 375.00
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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, Respondent Avalon is a party to this dispute and was a member of NASD at the time the following fees were assessed:

Member surcharge	= \$ 2,250.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$ 4,000.00
<u>Total Member Fees</u>	<u>= \$ 7,000.00</u>

**Adjournment Fees**

Adjournments granted during these proceedings for which fees were assessed:  
No requests for adjournments were granted in this matter.

**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 cancellation fees were assessed 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 during this proceeding.

**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:

Two (2) Decisions on discovery-related motions on the papers	= \$ 400.00
with one (1) Arbitrator @\$200.00	
Respondents submitted (2) two discovery-related motions	

Three (3) Pre-hearing sessions with the Panel @ \$1,200.00/session	= \$3,600.00
Pre-hearing conferences: May 22, 2006	1 session
September 12, 2006	1 session
October 26, 2006	1 session

Eight (8) Hearing sessions with the Panel @ \$1,200.00/session	= \$9,600.00
Hearing Dates: November 6, 2006	2 sessions
November 7, 2006	2 sessions
November 8, 2006	2 sessions
November 9, 2006	2 sessions

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Total Forum Fees	= \$13,600.00
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The Panel has assessed \$1,360.00 of the forum fees to Claimant Parker.  
The Panel has assessed \$1,360.00 of the forum fees to Claimant Preuit.  
The Panel has assessed \$1,360.00 of the forum fees to Claimant Terry.  
The Panel has assessed \$1,360.00 of the forum fees to Claimant White.  
The Panel has assessed \$1,360.00 of the forum fees to Claimant Dubbs.

The Panel has assessed \$3,400.00 of the forum fees to Respondent Avalon.  
The Panel has assessed \$3,400.00 of the forum fees to Respondent Bohannon.

**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 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 during this proceeding.

**Fee Summary**

Claimants are jointly and severally liable for:

<u>Initial Filing Fee</u>	= \$ 375.00
<u>Total Fees</u>	= \$ 375.00
<u>Less payments</u>	= \$ 375.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 0.00

Claimant Parker is solely liable for:

<u>Forum Fees</u>	= \$ 1,360.00
<u>Total Fees</u>	= \$ 1,360.00
<u>Less payments</u>	= \$ 415.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 945.00

Claimant Preuit is solely liable for:

<u>Forum Fees</u>	= \$ 1,360.00
<u>Total Fees</u>	= \$ 1,360.00
<u>Less payments</u>	= \$ 415.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 945.00

Claimant Terry is solely liable for:

<u>Forum Fees</u>	= \$ 1,360.00
<u>Total Fees</u>	= \$ 1,360.00
<u>Less payments</u>	= \$ 415.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 945.00

Claimant White is solely liable for:

<u>Forum Fees</u>	= \$ 1,360.00
<u>Total Fees</u>	= \$ 1,360.00
<u>Less payments</u>	= \$ 415.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 945.00

Claimant Dubbs is solely liable for:

<u>Forum Fees</u>	= \$ 1,360.00
<u>Total Fees</u>	= \$ 1,360.00

<u>Less payments</u>	= \$ 415.00
Balance Due NASD Dispute Resolution	= \$ 945.00

Respondent Avalon is solely liable for:

Member Fees	= \$ 7,000.00
<u>Forum Fees</u>	= \$ 3,400.00
Total Fees	= \$ 10,400.00
<u>Less payments</u>	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 3,400.00

Respondent Bohannon is solely liable for:

<u>Forum Fees</u>	= \$ 3,400.00
Total Fees	= \$ 3,400.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 3,400.00

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

**ARBITRATION PANEL**

<i>Kendall P. Hill</i>	-	<i>Public Arbitrator, Presiding Chairperson</i>
<i>Steven P. Gregory, Esq.</i>	-	<i>Public Arbitrator</i>
<i>Charles M. Dalziel, Esq.</i>	-	<i>Non-Public Arbitrator</i>

**Concurring Arbitrators' Signatures**

/s/  
Kendall P. Hill  
Public Arbitrator, Presiding Chairperson

11/13/06  
Signature Date

/s/  
Steven P. Gregory, Esq.  
Public Arbitrator

11/13/06  
Signature Date

/s/  
Charles M. Dalziel, Esq.  
Non-Public Arbitrator

11/14/06  
Signature Date

11/14/06  
Date of Service (For NASD Dispute Resolution office use only)

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Balance Due NASD Dispute Resolution	= \$ 945.00
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**Respondent Avalon is solely liable for:**

<b>Balance Due NASD Dispute Resolution</b>	<b>= \$ 3,400.00</b>
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**Respondent Bohannon is solely liable for:**

**Balance Due NASD Dispute Resolution = \$ 3,400.00**

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

**ARBITRATION PANEL**

**Charles M. Daiziel, Esq.** - **Non-Public Arbitrator**

### Concurring Arbitrators' Signatures

**Kendall P. Hill**  
**Public Arbitrator, Presiding Chairperson**

**Signature Date**

## Public Arbitrator

**Signature Date**

### Non-Public Arbitrator

**Signature Date**

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

<u>Less payments</u>	= \$	415.00
Balance Due NASD Dispute Resolution	= \$	945.00

Respondent Avalon is solely liable for:

Member Fees	= \$	7,000.00
Forum Fees	= \$	3,400.00
Total Fees	= \$	10,400.00
Less payments	= \$	7,000.00
Balance Due NASD Dispute Resolution	= \$	3,400.00

Respondent Bohannon is solely liable for:

Forum Fees	= \$	3,400.00
Total Fees	= \$	3,400.00
Less payments	= \$	0.00
Balance Due NASD Dispute Resolution	= \$	3,400.00

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

**ARBITRATION PANEL**

Kendall P. Hill	-	Public Arbitrator, Presiding Chairperson
Steven P. Gregory, Esq.	-	Public Arbitrator
Charles M. Dalziel, Esq.	-	Non-Public Arbitrator

**Concurring Arbitrators' Signatures**

Kendall P. Hill  
Public Arbitrator, Presiding Chairperson

Signature Date

  
Steven P. Gregory, Esq.  
Public Arbitrator

11/13/06  
Signature Date

Charles M. Dalziel, Esq.  
Non-Public Arbitrator

Signature Date

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



<u>Less payments</u>	= \$ 415.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 945.00

Respondent Avalon is solely liable for:

Member Fees	= \$ 7,000.00
Forum Fees	= \$ 3,400.00
Total Fees	= \$ 10,400.00
<u>Less payments</u>	= \$ 7,000.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 3,400.00

Respondent Bohannon is solely liable for:

Forum Fees	= \$ 3,400.00
Total Fees	= \$ 3,400.00
<u>Less payments</u>	= \$ 0.00
<u>Balance Due NASD Dispute Resolution</u>	= \$ 3,400.00

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

**ARBITRATION PANEL**

Kendall P. Hill	-	Public Arbitrator, Presiding Chairperson
Steven P. Gregory, Esq.	-	Public Arbitrator
Charles M. Dalziel, Esq.	-	Non-Public Arbitrator

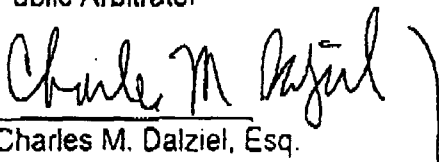
**Concurring Arbitrators' Signatures**

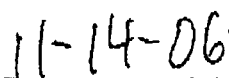
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Kendall P. Hill  
Public Arbitrator, Presiding Chairperson

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Signature Date

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Steven P. Gregory, Esq.  
Public Arbitrator

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