

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS**

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In the Matter of the Arbitration Between

**Name of Claimant**

William E. Latta

95-01420

**Name of Respondents**

Metropolitan Life Insurance Company  
Harry Kamen  
Ted Athanassiades  
Charles Sahner

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**REPRESENTATION**

For Claimant: Robert J. Carroll of Perenich, Carroll, Perenich, Avril & Caufield, P.A., Clearwater, FL; Louis Kwall of Kwall & Showers, P.A., Clearwater, FL; James O'Leary, II, Naples, FL.

For Respondents: Allen I. Fagin of Proskauer Rose Goetz & Mendelsohn LLP, New York, NY; Bruce E. Yannett of Debevoise & Plimpton, New York, NY.

**CASE INFORMATION**

Statement of Claim filed: March 9, 1995.

Amended Statement of Claim filed: April 11, 1996.

Claimant's Submission Agreement signed on: March 10, 1995.

Joint Statement of Answer filed by Respondents on: June 22, 1995.

Respondent Metropolitan Life Insurance Company's ("MetLife") Submission Agreement signed on: April 20, 1995.

Respondent Harry Kamen's ("Kamen") Submission Agreement signed on: April 20, 1995.

Respondent Ted Athanassiades' ("Athanassiades") Submission Agreement signed on: April 19, 1995.

Respondent Charles Sahner's ("Sahner") Submission Agreement signed on: April 19, 1995.

### HEARING INFORMATION

On July 19, 1996 a telephonic pre-hearing conference lasting one session was conducted with the arbitration panel.

On May 1,2,3, 1996; September 16, 17, 18, 19, 20, 1996; November 4, 5, 6, 1996; December 3, 4, 5, 1996; January 6, 7, 8, 9, 28, 1997 and April 4, 1997 in Tampa, FL hearings lasting thirty-eight (38) sessions were conducted.

### CASE SUMMARY

Claimant, a former employee of Respondent MetLife, asserted causes of action against Respondents for defamation (alleging that Respondents published untrue statements impugning his performance as a manager, and that MetLife slandered Claimant by labeling him a "bad apple" that had to be "weeded out," notwithstanding the evidence that unauthorized sales practices occurred throughout Metropolitan Life), fraud (alleging that Respondents led him to believe that MetLife approved the selling system used by a branch manager for whom he was directly responsible, led him to believe the approval system for sales materials was adequate and reliable, and failed to inform him that he was the purported subject of an internal investigation and that his continued employment with the company might be in jeopardy), intentional infliction of emotional distress (alleging that Respondents' acts in terminating his employment and making statements concerning him were actionable) and federal and Florida RICO claims asserting that Claimant suffered damages as a result of RICO predicate acts, specifically, mail fraud and acts in furtherance of a RICO conspiracy.

Respondents asserted that Claimant has alleged no claim for wrongful discharge and was an employee at will. Respondents asserted that Claimant was terminated solely for his failure over a four year period to supervise effectively a sales office that reported directly to him, which termination decision was made after a thorough investigation, and not for any reason that gave rise to any claim against Respondents by Claimant. Respondents denied that they ever published any false statements of fact concerning Claimant. Respondents denied that they had any intent to defame Claimant and asserted that any statements they published about Claimant were truthful and were protected by numerous qualified privileges, including the privilege to communicate with state investigators, the privilege to communicate with employees and others who shared a mutual interest in the subject matter (including, but not limited to, policyholders) and the privilege to respond to media inquiries and comment on matters of public concern. Respondents further denied they ever made any fraudulent statements to Claimant concerning his employment, the internal investigation, the sales approval process or MetLife's approval of the selling system used by the branch manager for whom he was responsible, or that Claimant relied to his detriment on any statements Respondent made. Respondents further denied that they ever engaged in any actionable activity that intentionally or recklessly caused Claimant emotional distress as defined under Florida law. Respondents denied committing any RICO violations, denied that Claimant's termination was part of a conspiracy in furtherance of a RICO enterprise and asserted that Claimant lacked standing to assert a RICO claim against the Respondents and that Claimant was responsible for preventing the predicate acts alleged in the Statement of

Claim. Respondents denied that their actions caused Claimant any damages.

### **RELIEF REQUESTED**

In the Amended Statement of Claim the Claimant requested \$5,000,000.00 in compensatory damages, attorney's fees, costs and \$15,000,000.00 in punitive damages.

Respondents requested that the claim be dismissed in its entirety and that they be awarded their costs and disbursements associated with the defense of this arbitration, including reasonable attorney's fees.

### **AWARD**

After considering the pleadings, the testimony and the evidence presented at the hearing and post hearing submissions, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

The Claimant's Statement of Claim is dismissed.

The Claimant's request for punitive damages is dismissed.

The parties' requests for attorney's fees, expenses and costs are denied. Each party shall bear their own attorney's fees, expenses and costs.

### **FORUM FEES**

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the Panel has assessed forum fees in the amount of \$58,500.00 (one pre-hearing conference with the full panel x \$1,500.00 plus thirty-eight hearing sessions x \$1,500.00).

Claimants are hereby assessed \$11,000.00 for which National Association of Securities Dealers Regulation, Inc. shall retain the hearing session deposit of \$1,500.00 previously deposited by the Claimants in partial satisfaction thereof leaving a balance due of \$9,500.00.

Respondent Metropolitan Life Insurance Company is hereby assessed \$47,500.00.

Due to an adjournment of the hearing scheduled on July 19, 1996 a postponement fee of \$1,000.00 was assessed of which Claimant owes \$500.00 and Respondent Metropolitan Life Insurance Company owes \$500.00.

Fees are payable to National Association of Securities Dealers Regulation, Inc.

**Concurring Arbitrators' Signatures**

**Public/Industry**

/s/

Nancy J. Cliff, Esq.  
Chairperson

**Public**

/s/

Samuel M. Niden

**Industry**

/s/

Walter E. Brittain

**Public**

**May 21, 1997**

**Date of Decision:** \_\_\_\_\_