

N.A.S.D. AWARD**NASD Regulation, Inc. Office of Dispute Resolution****In the Matter of the Arbitration Between****Name of Claimant**

L. Michael Rhodes

97-00127

Names of Respondents

Metropolitan Life Insurance Co.
John Carlton Moorcroft

REPRESENTATION

For Claimant: H. Mark Vieth, Esq., of Tilghman & Vieth, P.A., Miami, Florida.

For Respondent Metropolitan Life Insurance Co. ("Metlife"): Marilyn J. Holifield, Esq. and Thomas H. Loffredo, Esq. of Holland & Knight, LLP, Miami, Florida.

For Respondent John Carlton Moorcroft ("Moorcroft"): Joseph Z. Fleming, Esq. of Alley and Alley, Ford & Harrison, LLP, Miami, Florida, (see "Other Issues").

CASE INFORMATION

Statement of Claim filed: January 9, 1997.

Claimant's Submission Agreement signed on: January 8, 1997.

Statement of Answer filed by Respondent Metlife: March 31, 1997.

Statement of Answer filed by Respondent Moorcroft: May 27, 1997.

Respondent Metlife's Submission Agreement/Corporate Acknowledgment signed on: April 10, 1997 by Steven Orluck on behalf of the firm.

Respondent Moorcroft's Submission Agreement signed on: May 15, 1997.

HEARING INFORMATION

The arbitration panel conducted a telephonic pre-hearing conference which lasted one (1) session on August 27, 1997.

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On March 9, 10, 11, 12, 13 and 16, 1998 hearings lasting eleven (11) sessions were conducted in Fort Lauderdale, Florida.

CASE SUMMARY

Claimant alleged that he was subjected to age discrimination and retaliation while employed at Metlife. Claimant further alleged that his rights were violated under Title VII, Florida Statute 760.10 et seq and Federal Statute 42 U.S.C. Section 2000 et. seq. by the same conduct; that he has suffered loss of back and front pay, fringe benefits, the ability to earn an income in the future, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and that such losses will continue into the future.

Respondents Metlife and Moorcroft denied all allegations of wrongdoing contained in the Statement of Claim and asserted that any actions with regard to Claimant's employment with Metlife were taken for legitimate, non-discriminatory reasons.

RELIEF REQUESTED

Claimant requested compensatory damages for mental anguish, pain and suffering, loss of capacity to enjoy life, loss of dignity and other intangible injuries, in the approximate amount of \$3,000,000.00 plus back pay, front pay, punitive damages, attorneys' fees, costs and such further relief as the panel would deem appropriate.

Respondents requested a dismissal of the claim plus costs and such further relief deemed appropriate by the arbitration panel.

OTHER ISSUES CONSIDERED & DECIDED

1. On November 7, 1997, the parties filed a Stipulation for Voluntary Dismissal of the Claimant's Claims and Demands Against Individual Respondent John Carlton Moorcroft. The arbitration panel having executed an Order of Dismissal With Prejudice with Respect to Respondent Moorcroft, on December 3, 1997, this matter proceeded to hearing with the Claimant and Metlife only.
2. 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. In either case, the parties have agreed to receive conformed copies of the Award while the originals remain on file with NASD Regulation, Inc.

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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:

1. The panel found that Florida law (Florida Statute 760.10) applied in this matter.
2. The panel found that the Claimant was a victim of retaliation by Respondent Metlife in violation of Florida Statute 760.10(7).
3. Respondent Metlife is found liable and shall pay to the Claimant economic damages for past and future wages in the amount of \$700,529.00.
4. Respondent Metlife is found liable and shall pay to the Claimant non-economic damages for mental anguish and pain and suffering, in the amount of \$100,000.00.
5. Respondent Metlife is found liable and shall pay to the Claimant attorneys' fees and costs pursuant to Florida Statute 760.10, the amount of which shall be determined by a court of competent jurisdiction.
6. Claimant's request for punitive damages is hereby denied.
7. Respondent's request for costs is hereby denied.
8. Respondent Metlife shall pay to the Claimant the sum of \$1,500.00 representing the claim filing fee of \$500.00 and the hearing session deposit of \$1,000.00 previously deposited by the Claimant.
9. All other claims are hereby denied.

FORUM FEES

Pursuant to Rule 10205c of the Code of Arbitration Procedure ("Code"), the arbitration panel has assessed forum fees in the amount of \$12,000.00 (one (1) pre-hearing conference (panel) x \$1,000.00 + eleven (11) hearing sessions x \$1,000.00).

1. Respondent Metlife is hereby assessed forum fees in the amount of \$12,000.00 for which NASD Regulation, Inc. shall retain the \$1,000.00 previously paid by the Claimant and the \$5,666.00 previously deposited by Metlife in partial satisfaction thereof leaving a balance due to NASD Regulation, Inc. by Metlife of \$5,334.00
2. NASD Regulation, Inc. shall retain the claim filing fee of \$500.00 paid by the Claimant.
3. NASD Regulation, Inc. shall retain the member surcharge of \$500.00 paid by Respondent Metlife pursuant to Rule 10333 of the Code.

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Fees are payable to the NASD Regulation, Inc. Office of Dispute Resolution

ARBITRATION PANEL

Concurring Arbitrators' Signatures

_____/s/
Anthony J. Titone, Esq.

Public/Chairperson

_____/s/
James M. Dunne

Public/Panelist

_____/s/
Theodore Kimelman

Industry/Panelist

Date of Decision: May 15, 1998