

**Award**  
**NASD Regulation, Inc.**

In the Matter of the Arbitration Between

Karla S. Burnett

Case No. 99-01239

Name of Respondent

Steven M. Hedden

**REPRESENTATION OF PARTIES**

For Karla S. Burnett ("Burnett"), hereinafter referred to as 'Claimant': James C. Cothran, Jr., Esq., Spartanburg, South Carolina.

For Steven M. Hedden ("Hedden"), hereinafter referred to as "Respondent": William G. Seibert, Esq., of the law firm of Ashmore & Yarborough, P.A., Greenville, South Carolina.

**CASE INFORMATION**

Statement of Claim filed on or about: March 12, 1999.

Claimant signed the Uniform Submission Agreement: March 12, 1999.

Statement of Answer filed by Respondent on or about: May 17, 1999.

Respondent signed the Uniform Submission Agreement: May 17, 1999.

**CASE SUMMARY**

Claimant asserted the following: In January 1995, Claimant purchased two Hartford annuities through Respondent in the amounts of \$19,084.07 and \$24,729.78. On January 15, 1996, Respondent recommended Claimant transfer her investment into American Investors Life Insurance annuities. Claimant transferred from the Hartford annuities to the American Investors Life Insurance annuities which resulted in Claimant incurring penalties in the amount of \$2,689.64. Respondent did not advise Claimant of the option to transfer her investment to other Hartford annuities without penalty. On April 23, 1998, Claimant sold the American Investors Life Insurance annuities and incurred surrender charges in the amount of \$5,909.23. Claimant is damaged by at least the sum of \$50,250.05 which represents the difference in value between the Hartford annuities and the American Investors Life Insurance annuities as of April 23, 1998.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the

Statement of Claim and asserted the following defenses: Respondent provided Claimant with all information necessary for Claimant to make an informed decision to transfer from the Hartford annuities to the American Investors Life Insurance annuities. Respondent provided Claimant with a prospectus from Hartford which stated that a penalty would be assessed if Claimant's investment was transferred. Claimant received two Notices of Replacement from American Investors Life Insurance notifying Claimant to carefully consider the decision to transfer funds. The difference in value between the two funds is \$44,340.82.

### **RELIEF REQUESTED**

Claimant requested damages in an amount not to exceed \$99,999.00, including punitive damages.

Respondent requested that Claimant be awarded no damages.

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

On November 2, 1999, the Arbitration Panel (the "Panel") denied Claimant's Motion for Deposition wherein the Panel denied Claimant's motion to depose Respondent.

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, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable and shall pay to Claimant the sum of \$14,000.00.
2. Post judgment interest at the rate of six (6%) percent per annum shall begin to accrue as of ninety (90) days after the date of the Award until the date of payment of the award.
3. Claimant's request for punitive damages is denied
4. Each party shall bear their respective costs, including attorneys' fees.
5. All other requests for relief not specifically addressed herein are denied

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$150.00

#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, First Allied Securities, Inc., the member firm, is the Respondent's firm.

Member surcharge = \$1,000.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$1,500.00

#### **Adjournment Fees**

Adjournments requested during these proceedings:

February 1, 2000 Hearing Date, adjournment by Respondent = \$500.00

#### **Forum Fees and Assessments**

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel x \$500.00 = \$500.00

Pre-hearing conference: November 2, 1999 1 session

One (1) Hearing session x \$500.00 = \$500.00

Hearing Date: March 8, 2000 1 session

Total Forum Fees = \$1,000.00

The Panel has assessed \$500.00 of the forum fees to Claimant.

The Panel has assessed \$500.00 of the forum fees to Respondent

#### **Administrative Costs**

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

No administrative costs were incurred during these proceedings

**Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$150.00
Forum Fees	= \$500.00
Total Fees	= \$650.00
<u>Less payments</u>	<u>= \$650.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

Respondent be and hereby is solely liable for:

Adjournment Fee	= \$ 500.00
Forum Fees	= \$ 500.00
Total Fees	= \$1,000.00
<u>Less payments</u>	<u>= \$ 650.00</u>
Balance Due NASD Regulation, Inc.	= \$350.00

First Allied Securities, Inc. is solely liable for:

Member fees	= \$2,100.00
Total fees	= \$2,100.00
<u>Less payments</u>	<u>= \$ 600.00</u>
Balance Due NASD Regulation, Inc.	= \$1,500.00

All balances are due and payable to NASD Regulation, Inc.

**Concurring Arbitrators' Signatures**

/s/  
Donald G. Kennedy  
Public Arbitrator, Presiding Chair

Signature Date

/s/  
Gordon F. Linke  
Industry Arbitrator

Signature Date

/s/  
Arne Hovdesven.  
Public Arbitrator

Signature Date

April 19, 2000  
Date of Service (For NASD office use only)

**Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$150.00
Forum Fees	= \$500.00
Total Fees	= \$650.00
<u>Less payments</u>	<u>= \$650.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

Respondent be and hereby is solely liable for:


Adjournment Fee	= \$ 500.00
Forum Fees	= \$ 500.00
Total Fees	= \$1,000.00
<u>Less payments</u>	<u>= \$ 650.00</u>
Balance Due NASD Regulation, Inc.	= \$350.00

First Allied Securities, Inc. is solely liable for:

Member fees	= \$2,100.00
Total fees	= \$2,100.00
<u>Less payments</u>	<u>= 600.00</u>
Balance Due NASD Regulation, Inc.	= \$1,500.00

All balances are due and payable to NASD Regulation, Inc.

**Concurring Arbitrators' Signatures**

  
Donald G. Kennedy  
Public Arbitrator, Presiding Chair

April 17, 2000  
Signature Date

Gordon F. Linke  
Gordon F. Linke  
Industry Arbitrator

Signature Date

Arne Hovdesven  
Arne Hovdesven  
Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

### Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee

= \$150.00

Forum Fees

= \$500.00

Total Fees

= \$650.00

Less payments

= \$650.00

Balance Due NASD Regulation, Inc.

= \$0.00

Respondent be and hereby is solely liable for:

Adjournment Fee

= \$ 500.00

Forum Fees

= \$ 500.00

Total Fees

= \$1,000.00

Less payments

= \$ 650.00

Balance Due NASD Regulation, Inc.

= \$350.00

First Allied Securities, Inc. is solely liable for:

Member fees

= \$2,100.00

Total fees

= \$2,100.00

Less payments

= \$ 600.00

Balance Due NASD Regulation, Inc.

= \$1,500.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrators' Signatures

Donald G. Kennedy

Public Arbitrator, Presiding Chair

Signature Date

Donald G. Kennedy  
Public Arbitrator, Pres

  
Gordon F. Linke  
Industry Arbitrator

Signature Date

Arne Hovdervan  
Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

**Fee Summary**

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$150.00
Forum Fees	= \$800.00
Total Fees	= \$650.00
<u>Less payments</u>	<u>= \$650.00</u>
Balance Due NASD Regulation, Inc.	= \$0.00

Respondent be and hereby is solely liable for:

Adjournment Fee	= \$ 500.00
Forum Fees	= \$ 800.00
Total Fees	= \$1,000.00
<u>Less payments</u>	<u>= \$ 650.00</u>
Balance Due NASD Regulation, Inc.	= \$350.00

First Allied Securities, Inc. is solely liable for:

Member fees	= \$2,100.00
Total fees	= \$2,100.00
<u>Less payments</u>	<u>600.00</u>
Balance Due NASD Regulation, Inc.	= \$1,500.00

All balances are due and payable to NASD Regulation, Inc.

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Donald G. Kennedy  
Public Arbitrator, Presiding Chair

Signature Date

Gordon F. Linke  
Industry Arbitrator

Signature Date

Arne Hovdesven  
Arne Hovdesven  
Public Arbitrator

April 13, 2000  
Signature Date

Date of Service (For NASD office use only)