

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

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In the Matter of the Arbitration Between:

Maria Gionet, (Claimant) vs. Allmerica Investments, Inc. and Ronald P. Kashmanian,  
(Respondents)

Case Number: 99-02131

Hearing Site: Boston, Massachusetts

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**REPRESENTATION OF PARTIES**

Claimant, Maria Gionet ("Gionet"), hereinafter referred to as "Claimant": Keven A. McKenna, Esq., Keven A. McKenna, PC, Providence, RI.

Respondent, Allmerica Investments, Inc. ("Allmerica"): Stephen B. Lang, Esq., Higgins, Cavanagh & Cooney, LLP, Providence, RI.

Respondent, Ronald P. Kashmanian ("Kashmanian"): John F. Dolan, Esq., Rice Dolan & Kershaw, Providence, RI.

**CASE INFORMATION**

Statement of Claim filed on or about: May 6, 1999.

Claimant signed the Uniform Submission Agreement: April 6, 1999.

Statement of Answer filed by Allmerica on or about: July 22, 1999.

Allmerica signed the Uniform Submission Agreement: June 14, 1999.

Statement of Answer filed by Kashmanian on or about: July 22, 1999.

Kashmanian signed the Uniform Submission Agreement: July 21, 1999.

**CASE SUMMARY**

Claimant asserted the following causes of action: unsuitability; violations of Rhode Island Department of Business Regulations; omissions; violations of federal and state securities laws; and breach of duty to supervise.

Unless specifically admitted in its Answer, Allmerica denied the allegations made in the Statement of Claim and asserted the following defenses: Claimant should be estopped from seeking the relief claimed because her own inaction has contributed in large part or caused entirely any damages she has suffered; laches; Claimant failed to take reasonable steps to mitigate her alleged damages; equitable principles preclude Claimant from recovering

damages when she could have mitigated her loss and failed to do so; and Kashmanian was a registered representative of Allmerica, not a qualified financial planner, when he became acquainted with Claimant.

Unless specifically admitted in his Answer, Kashmanian denied the allegations made in the Statement of Claim and asserted the following defenses: Kashmanian was not, and did not represent himself to be, a financial planner at the time he met Claimant; Kashmanian met with Claimant and obtained the information necessary to provide her with suitable investment alternatives; Kashmanian was satisfied that Claimant had all the information necessary to make an informed decision; Claimant made no mention to Kashmanian about paying off her mortgage until a letter sent in October 1996, at which time Kashmanian provided her with two suggestions on how to do so; the present value of the annuity in question is higher than Claimant's original investment; and there was no violation of any Rule of the Department of Business Regulation, Rhode Island General Law, United States Code, or SEC Rules on the part of Kashmanian.

#### **RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$100,000.00, plus any other remedy that the Panel deems fit.

#### **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. Claimant's claims are hereby dismissed in their entirety.
2. All other requests for relief are hereby 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 = \$ 225.00

#### **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 events giving rise to the dispute. In this matter, Allmerica Investments, Inc. is a party.

Member surcharge = \$1,000.00

Pre-hearing process fee = \$ 600.00

Hearing process fee = \$1,500.00

#### **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 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 Panel x \$750.00 = \$ 750.00

Pre-hearing conference: February 17, 2000 1 session

Four (4) Hearing sessions x \$750.00 = \$3,000.00

Hearing Dates: May 15, 2000 2 sessions

May 16, 2000 2 sessions

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Total Forum Fees = \$3,750.00

The Panel has assessed all of the forum fees against Claimant.

### **Fee Summary**

1. Claimant be and hereby is solely liable for:

Initial Filing Fee = \$ 225.00

Forum Fees = \$3,750.00

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Total Fees = \$3,975.00

Less payments = \$1,100.00

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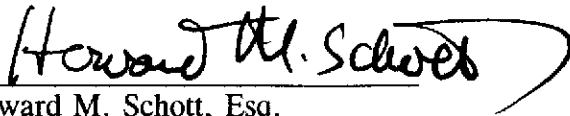
Balance Due NASD Regulation, Inc. = \$2,875.00

2. Allmerica be and hereby is solely liable for:

<u>Member Fees</u>	= \$3,100.00
<u>Total Fees</u>	= \$3,100.00
<u>Less payments</u>	= \$3,100.00
Balance Due NASD Regulation, Inc.	= \$ 0.00

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

**Concurring Arbitrators' Signatures**

  
Howard M. Schott, Esq.  
Public Arbitrator, Presiding Chair

June 17, 2000  
Signature Date

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Thomas J. Donoghue, J.D.  
Public Arbitrator

\_\_\_\_\_  
Signature Date

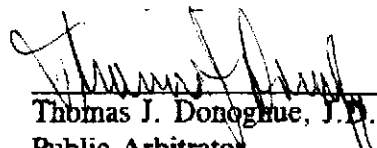
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Thomas P. Lescoe  
Industry Arbitrator

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Signature Date

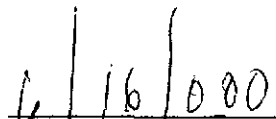
June 27, 2000  
Date of Service (For NASD office use only)

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Public Arbitrator, Presiding Chair

  
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Thomas J. Donoghue, J.D.  
Public Arbitrator

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Signature Date

  
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Signature Date

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Thomas P. Lescoe  
Industry Arbitrator

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Signature Date

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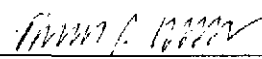
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Thomas J. Donoghue, J.D.  
Public Arbitrator

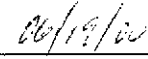
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Thomas P. Lescue  
Industry Arbitrator

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