

**Award**  
**NASD Dispute Resolution, Inc.**

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In the Matter of the Arbitration Between:

**William T. Walborn,**  
Claimant

Vs.

Case Number: 99-04237  
Hearing Site: Cleveland, Ohio

**Aetna Life Insurance & Annuity Company,**  
Respondent.

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**REPRESENTATION OF PARTIES**

C. Randolph Light, Esquire, of Rohrbachers, Light, Cron, Zmuda & Trimble Co., L.P.A., Toledo, Ohio, represented Claimant William T. Walborn ("Walborn").

Thomas R. Kraemer, Esquire, of Faruki, Gilliam & Ireland, P.L.L., Dayton, Ohio, represented Respondent Aetna Life Insurance & Annuity Company ("Aetna").

**CASE INFORMATION**

The Statement of Claim was filed on or about September 16, 1999.

Claimant signed the Uniform Submission Agreement on September 8, 1999.

Respondent filed its Statement of Answer on or about December 2, 1999.

Patrick F. O'Christie signed the Uniform Submission Agreement on Respondent's behalf on November 30, 1999.

**CASE SUMMARY**

Claimant, a former employee of Respondent Aetna, alleged the following in his Statement of Claim: fraud, duress, breach of contract and breach of fiduciary duty. The allegations involved withheld commissions and the improper filing of a U-5 termination notice.

Unless stated otherwise in its Statement of Answer, Respondent denied all the allegations asserted in the Statement of Claim and asserted the following affirmative defenses: failure to state a claim upon which relief may be granted, violation of applicable statutes of limitations, waiver, estoppel and laches.

### **RELIEF REQUESTED**

Claimant requested:

Compensatory Damages	\$ 800,000.00
Punitive Damages	\$2,400,000.00
Costs	unspecified
Attorney's Fees	unspecified

Claimant also requested that the Panel order the reinstatement of his U-4 and recommend the expungement of his U-5 from the Central Registration Depository of the NASD ("CRD").

Respondent requested that the Statement of Claim be dismissed in its entirety and that it be awarded costs and attorney's fees. Respondent also requested that the Panel declare it to be legally entitled to terminate Claimant's career agent contract.

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

On May 21, 2001, the parties, with permission of the Panel, submitted post-hearing briefs for the Panel's review prior to rendering an award. The Panel reviewed and discussed the briefs prior to rendering the following award.

### **AWARD**

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

1. Respondent, Aetna Life Insurance & Annuity Company, is solely liable for, and shall pay to Claimant, William T. Walborn, the sum of \$14,000.00 (Fourteen Thousand Dollars and No Cents) in Compensatory Damages.
2. Except as specified otherwise herein, each party shall bear its own costs and attorneys' fees.
3. Any and all relief not specifically addressed herein, including specific performance, declaratory relief and punitive damages, is denied.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

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

Initial claim filing fee = \$ 600

#### **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(s) at the time of the events giving rise to the dispute. In this matter, the member firm is Aetna Life Insurance & Annuity Company

Member surcharge = \$2,500

Pre-hearing process fee = \$ 600

Hearing process fee = \$4,500

#### **Adjournment Fees**

Adjournments requested during these proceedings:

October 24-25, 2000, adjournment by Respondent = \$1,200

#### **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:

Two (2) Pre-hearing conferences with Panel x \$1,200 = \$2,400

Pre-hearing conferences August 2, 2000 1 session

January 16, 2001 1 session

Four (4) Hearing sessions x \$1,200 = \$4,800

Hearing Dates: May 3, 2001 2 sessions

May 4, 2001 2 sessions

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Total Forum Fees = \$7,200

The Panel has assessed \$1,200 in Forum Fees solely to Claimant William T. Walborn.

The Panel has assessed the remaining \$6,000 in Forum Fees solely to Respondent Aetna Life Insurance & Annuity Company.

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William T. Walborn vs. Aetna Life Insurance & Annuity Company  
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**Fee Summary**

1. Claimant, William T. Walborn, be and hereby is solely liable for:

Initial Filing Fee	= \$ 600
Forum Fees	= \$ 1,200
Total Fees	= \$ 1,800
Less payments	= \$ 1,800
Balance Due NASD Dispute Resolution, Inc.	= \$ 0

2. Respondent, Aetna Life Insurance & Annuity Company, be and hereby is solely liable for:

Adjournment Fee	= \$ 1,200
Forum Fees	= \$ 6,000
Member Fees	= \$ 7,600
Total Fees	= \$ 14,800
Less payments	= \$ 8,800
Balance Due NASD Dispute Resolution, Inc.	= \$ 6,000

All balances are due to NASD Dispute Resolution, Inc.

**Concurring Arbitrators' Signatures**



AnnDrea M. Benson, Esq.  
Non-Public Arbitrator, Presiding Chair

Aug. 1, 2001  
Signature Date

\_\_\_\_\_  
David H. Bulkley  
Non-Public Arbitrator

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

\_\_\_\_\_  
Kathleen T. SuSong  
Non-Public Arbitrator

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

\_\_\_\_\_  
Date of Service (NASD Dispute Resolution, Inc. office use only)

NASD-DR Award

William T. Walborn vs. Aetna Life Insurance &amp; Annuity Company

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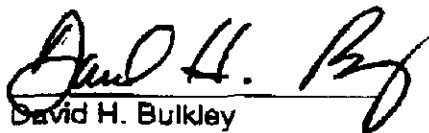
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AnnDrea M. Benson, Esq.  
Non-Public Arbitrator, Presiding Chair

  
David H. Bulkley  
Non-Public Arbitrator

Signature Date

7-31-01

Signature Date

Kathleen T. SuSong  
Non-Public Arbitrator

Signature Date

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NASD-DR Award

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