

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Christine Callie Bourdelais

Case Number: 21-01391

vs.

Respondents

NYLife Securities, LLC
New York Life Insurance Company
New York Life Insurance and Annuity Corporation
New York Life Insurance Company of Arizona

Hearing Site: Norfolk, Virginia

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Members and Non-Members

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Christine Callie Bourdelais: Jack T. Randall, Esq. and W. Christopher Dunn, Esq., Randall, Page & Bruch, P.C., Courtland, Virginia through November 4, 2022. Thereafter, Claimant appeared pro se.

For Respondents NYLife Securities, LLC, New York Life Insurance Company, New York Life Insurance and Annuity Corporation, and New York Life Insurance Company of Arizona: Richard F. Lubarsky, Esq., Lubarsky Law Firm PLLC, White Plains, New York through December 28, 2021. Thereafter, Respondents were represented by Christopher J. Murdoch, Esq., Emry Murdoch LLC, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: July 9, 2021.

Christine Callie Bourdelais signed the Submission Agreement: July 9, 2021.

Amended Statement of Claim filed on or about: August 6, 2021.

Statement of Answer filed by Respondents on or about: October 4, 2021.

NYLife Securities LLC signed the Submission Agreement: September 28, 2021.

New York Life Insurance Company signed the Submission Agreement: September 28, 2021.

New York Life Insurance & Annuity Corp. signed the Submission Agreement: September 28, 2021.

NY Life Insurance Company of Arizona signed the Submission Agreement: September 28, 2021.

CASE SUMMARY

In the Statement of Claim, as amended, Claimant asserted the following causes of action: breach of contract, accounting in equity pursuant to § 8.01-31 of The Code of Virginia, 1950, as amended; and common law accounting in equity. The causes of action relate to Respondents' alleged wrongful acts to diminish the gross compensation paid to Claimant pursuant to the April 23, 2015 Reinstatement Letter regarding Claimant's July 17, 2007 Agent's Contract.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim, as amended, and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested: an equitable accounting of the commissions, servicing fees, pension contributions, and other compensation owed to Claimant; that a Commissioner in Chancery be appointed to conduct and oversee the equitable accounting; that Respondent surrender such books and records to the Commissioner in Chancery necessary to disclose the commissions, servicing fees, pension contributions, and other compensation owed to Claimant; that the costs, expenses and fees of the Commissioner in Chancery be assessed to Respondent; that judgement be entered in Claimant's favor against Respondents, jointly and severally, in the amount as ascertained by the aforementioned equitable accounting together with Claimant's costs expended herein, including reasonable attorney's fees; punitive damages; and any such further relief as deemed just and proper.

In the Statement of Answer, Respondents requested: dismissal of Claimant's claims with prejudice; that Claimant's request for damages, accounting, costs, expenses, fees or other relief be denied; fees and expenses; and such other and further relief as appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

In the Amended Statement of Claim, Claimant added New York Life Insurance Company, New York Life Insurance and Annuity Corporation, and New York Life Insurance Company of Arizona as additional Respondents.

Respondents New York Life Insurance Company, New York Life Insurance and Annuity Corporation, and NY Life Insurance Company of Arizona are non-members of FINRA. However, having executed a pre-dispute agreement and having filed a Statement of Answer and executed Submission Agreements, Respondents New York Life Insurance Company, New York Life Insurance and Annuity Corporation, and NY Life Insurance Company of Arizona are bound by the determination of the Panel on all issues submitted.

On July 12, 2022, Respondents filed a Motion for Sanctions Including Dismissal with Prejudice pursuant to Rules 13511 and 13212 of the Code ("Motion"). On July 19, 2022, Claimant filed an opposition to the Motion. On July 25, 2022, Respondents filed a reply in support of the Motion. On September 6, 2022, the Panel heard oral arguments on the Motion and issued an Order that gave Claimant forty-five (45) days (until October 21, 2022) to notify FINRA and Respondents in writing that she either obtained new counsel or states that she is going to represent herself. Furthermore, the Order stated that if Claimant did not provide the information by October 21, 2022, Claimant's claims would be dismissed without prejudice and Respondents' Motion for Sanctions for attorney fees would be granted in the amount of one thousand (\$1,000.00) dollars against Claimant and for Respondents.

On November 4, 2022, Respondents filed a Motion for Entry of Dismissal Pursuant to September 6, 2022, Order. Claimant did not file a response.

On November 28, 2022, Claimant filed a request for an extension of time to comply with the Panel's October 21, 2022, deadline to retain an attorney or advise that Claimant would represent herself. On or about December 7, 2022, the Panel issued an Order in which it ruled that it would not consider Claimant's November 28, 2022, request.

On or about December 2, 2022, the Panel entered an Order granting Respondents' Motion for Entry of Dismissal as follows:

The Panel grants the Motion to Dismiss Without Prejudice. At the prehearing conference held on September 6, 2022, the Panel ruled to defer its decision on the Motion to Dismiss. At the hearing Claimant dismissed her attorney and requested time to obtain new counsel. The Panel granted the Claimant 45 days (October 21, 2022) to obtain new counsel. The Panel ordered the Claimant to notify FINRA and Respondents in writing by October 21, 2022 that she had obtained new counsel or that she will represent herself and proceed pro se. October 21, 2022 passed without any communication from Claimant. The Claimant's refusal to comply with the order of the Panel warrants the Dismissal Without Prejudice.

The Panel restates its order granting \$1,000.00 in sanctions for Attorney Fees against the Claimant for the Respondents as given in its prior order dated September 6, 2022. (This is not an additional award of \$1,000.00, but a total of \$1,000.00 award for Respondents' attorney fees.)

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings and Respondents' Motion for Entry of Dismissal Pursuant to September 6, 2022, Order, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant's claims are dismissed without prejudice based upon Claimant's failure to comply with the provisions of the Panel's order dated September 6, 2022.

2. The Panel restates its September 6, 2022, Order granting Respondents' request for \$1,000.00 in attorneys' fees as a sanction against Claimant. This is not an additional \$1,000.00, but a total sanction of \$1,000.00 for attorneys' fees payable by Claimant to Respondents.

FEES

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee = \$ 1,600.00

**The filing fee is made up of a non-refundable and a refundable portion.*

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. Accordingly, as a party, Respondent NYLife Securities, LLC is assessed the following:

Member Surcharge = \$ 2,000.00
Member Process Fee = \$ 3,850.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

July 19 – 21, 2022, postponement requested by the Parties = \$ 1,150.00

Total Postponement Fees = \$ 1,150.00

The Panel has assessed \$575.00 of the postponement fees to Claimant.

The Panel has assessed \$575.00 of the postponement fees jointly and severally to Respondents.

Hearing Session Fees and Assessments

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

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session = \$ 450.00
Pre-Hearing Conference: June 28, 2022 1 session

Two (2) pre-hearing sessions with the Panel @ \$1,150.00/session = \$ 2,300.00
Pre-Hearing Conferences: January 5, 2022 1 session
September 6, 2022 1 session

Total Hearing Session Fees	= \$ 2,750.00
----------------------------	---------------

The Panel has assessed \$1,950.00 of the hearing session fees to Claimant.

The Panel has assessed \$800.00 of the hearing session fees jointly and severally to Respondents.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATION PANEL

Michael J. Ahlstrom	-	Public Arbitrator, Presiding Chairperson
Catherine Esther Bocskor	-	Public Arbitrator
Lawrence M. Barnes, Jr.	-	Non-Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Michael J. Ahlstrom

Michael J. Ahlstrom
Public Arbitrator, Presiding Chairperson

12/13/2022

Signature Date

Catherine Esther Bocskor

Catherine Esther Bocskor
Public Arbitrator

12/12/2022

Signature Date

Lawrence M. Barnes, Jr.

Lawrence M. Barnes, Jr.
Non-Public Arbitrator

12/12/2022

Signature Date

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

December 13, 2022

Date of Service (For FINRA Dispute Resolution Services use only)