

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)
vs.)
C.A. No. 09-470-S)
JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., HARRISON CONDIT,)
and FORTUNE FINANCIAL SERVICES,)
INC.,)
Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)
vs.)
C.A. No. 09-472-S)
JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., ADM ASSOCIATES,)
LLC, EDWARD HANRAHAN, THE)
LEADERS GROUP, INC., and CHARLES)
BUCKMAN,)
Defendants;)

WESTERN RESERVE LIFE ASSURANCE)
CO. OF OHIO,)
Plaintiff,)
vs.)
C.A. No. 09-473-S)
JOSEPH CARAMADRE, RAYMOUR)
RADHAKRISHNAN, ESTATE PLANNING)
RESOURCES, INC., DK LLC, EDWARD)
HANRAHAN, THE LEADERS GROUP,)
INC., and JASON VEVEIROS,)
Defendants;)

_____)	
)	
WESTERN RESERVE LIFE ASSURANCE)	
CO. OF OHIO,)	
Plaintiff,)	
)	
vs.)	
)	C.A. No. 09-502-S
JOSEPH CARAMADRE, RAYMOUR)	
RADHAKRISHNAN, ESTATE PLANNING)	
RESOURCES, INC., NATCO PRODUCTS)	
CORP., EDWARD HANRAHAN, and THE)	
LEADERS GROUP, INC.,)	
Defendants;)	
_____)	

**PLAINTIFF’S ANSWER TO COUNTERCLAIM OF
DEFENDANT THE LEADERS GROUP, INC.**

Plaintiff Western Reserve Life Assurance Co. of Ohio (“Plaintiff”) for its Answer to the Counterclaims of Defendant The Leaders Group, Inc. (“Leaders Group”) asserted in C.A. No. 09-472, C.A. No. 09-473 and C.A. No. 09-502, states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 and therefore the allegations are denied.
2. Plaintiff admits the allegations contained in paragraph 2.
3. Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 and therefore the allegations are denied.
4. Plaintiff admits the allegations contained in paragraph 4.

GENERAL ALLEGATIONS

5. No answer is required to paragraph 5, as Leaders Group realleges and incorporates by reference its Answers to Plaintiff’s Complaint. To the extent an answer is required, Plaintiff denies the allegations contained in paragraph 5

6. Plaintiff admits that Leaders Group is an independent broker/dealer. Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 6 and therefore the allegations are denied.

7. Plaintiff admits the allegations contained in paragraph 7.

8. Plaintiff admits the allegations contained in paragraph 8.

9. Plaintiff denies the allegations contained in paragraph 9.

10. In answer to the allegations contained in paragraph 10, Plaintiff admits that the variable annuity market is an important and substantial component of Plaintiff's business. Plaintiff denies the remaining allegations contained in paragraph 10.

11. Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11, as Plaintiff is without knowledge as to the source or basis for the information contained in the allegations, and Plaintiff therefore denies the allegations.

12. Plaintiff admits the allegations contained in paragraph 12.

13. Plaintiff admits the allegations contained in the first sentence of paragraph 13. In response to the remaining allegations contained in this paragraph, Plaintiff states that the 1995 Agreement speaks for itself, and Plaintiff denies the allegations contained in paragraph 13 to the extent that they are inconsistent with the 1995 Agreement.

14. Plaintiff states that the 1995 Agreement speaks for itself, and Plaintiff denies the allegations contained in paragraph 14 to the extent that they are inconsistent with the 1995 Agreement.

15. Plaintiff denies the allegations contained in paragraph 15.

16. Plaintiff admits that it entered into a Contractor's Agreement for the wholesaling of WRL Variable Products by and among AFSG Securities Corporation ("AFSG"), Western Reserve and Leaders Group, which agreement was effective as of April 30, 2002 (the "2002 Agreement"). Plaintiff admits that a copy of the 2002 Agreement is attached to the Counterclaim as Exhibit 1. Plaintiff denies the remaining allegations contained in paragraph 16, including, without limitation, the allegation that the 2002 Agreement replaced the 1995 Agreement.

17. Plaintiff states that the 2002 Agreement speaks for itself, and Plaintiff denies the allegations contained in paragraph 17 to the extent that they are inconsistent with the 2002 Agreement.

18. Plaintiff states that the 2002 Agreement speaks for itself, and Plaintiff denies the allegations contained in paragraph 18 to the extent that they are inconsistent with the 2002 Agreement.

19. Plaintiff states that the 2002 Agreement speaks for itself, and Plaintiff denies the allegations contained in paragraph 19 to the extent that they are inconsistent with the 2002 Agreement.

20. Plaintiff admits the allegations contained in the first sentence of paragraph 20. With respect to the remaining allegations contained in paragraph 20, Plaintiff states that the terms of the "WRL Freedom Premier III" annuity contract (the "WRL Annuity") speak for themselves, and Plaintiff denies the remaining allegations contained in paragraph 20 to the extent that they are inconsistent with the WRL Annuity.

21. Plaintiff denies the allegations contained in paragraph 21.

22. Plaintiff admits the allegations contained in paragraph 22.

23. Plaintiff admits the allegations contained in paragraph 23.

24. Plaintiff states that the Application speaks for itself, and Plaintiff denies the allegations contained in paragraph 24 to the extent that they are inconsistent with the Application.

25. Plaintiff denies the allegations contained in paragraph 25 because the allegations are vague, unclear and ambiguous.

26. Plaintiff denies the allegations contained in paragraph 26 because the allegations are vague, unclear and ambiguous, and Plaintiff further states that its ability to review the information submitted by Defendants was impaired by Defendants' fraud.

27. Plaintiff states that, to the extent that the document referred to in the first sentence of paragraph 27 is the document attached as Exhibit B to Plaintiff's Complaint, Plaintiff admits the allegations contained in the first sentence of paragraph 27. With regard to the remaining allegations contained in paragraph 27, Plaintiff states that the Prospectus speaks for itself, and Plaintiff denies the allegations contained in paragraph 27 to the extent that they are inconsistent with the Prospectus.

28. Plaintiff states that the Prospectus speaks for itself, and Plaintiff denies the allegations contained in paragraph 28 to the extent that they are inconsistent with the Prospectus.

29. Leaders Group fails to define the term "Annuity Policy" and the term is vague, unclear and ambiguous. Plaintiff denies the allegations contained in paragraph 29.

30. Leaders Group fails to define the term "Annuity Policy" and the term is vague, unclear and ambiguous. Plaintiff denies the allegations contained in paragraph 30.

31. Leaders Group fails to define the term "Annuity Policy" and the term is vague, unclear and ambiguous. Plaintiff denies the allegations contained in paragraph 31.

32. Leaders Group fails to define the term “Annuity Policy” and the term is vague, unclear and ambiguous. Plaintiff denies the allegations contained in paragraph 32. In further answer to the allegations contained in this paragraph, Plaintiff states that the terms of the annuity policy (“Annuity”) attached as Exhibit D to Plaintiff’s Complaint speak for themselves, and Plaintiff denies the allegations contained in paragraph 32 to the extent they are inconsistent with the terms of the Annuity.

33. Plaintiff denies the allegations contained in paragraph 33 pertaining to the “Annuity Policy” because Leaders Group fails to define that term as used in its Counterclaim, and the term is vague, unclear and ambiguous. Plaintiff admits the remaining allegations contained in paragraph 33.

34. Plaintiff admits the allegations contained in paragraph 34 that it is solely responsible for the WRL Annuity and for the content of the Prospectus. Plaintiff denies the remaining allegations contained in paragraph 34 because those allegations are unclear, vague and ambiguous.

35. Plaintiff admits the allegation contained in paragraph 35 that the Application attached as Exhibit C to Plaintiff’s Complaint was completed for the purpose of purchasing a WRL Annuity. Plaintiff denies the remaining allegations contained in paragraph 35.

36. In answer to the allegations contained in paragraph 36, Plaintiff states that it issued the annuity policy attached as Exhibit D to Plaintiff’s Complaint. Plaintiff denies the remaining allegations contained in paragraph 36.

37. Plaintiff denies the allegations contained in paragraph 37 because the allegations are vague, unclear and ambiguous, and Plaintiff further states that its ability to conduct a review and analysis was impaired by Defendants’ fraud.

38. Plaintiff admits the allegations contained in paragraph 38.

39. Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 39 that Leaders Group undertook to become knowledgeable about the WRL Annuity product and therefore those allegations are denied. Plaintiff denies the remaining allegations contained in paragraph 39.

40. Plaintiff denies the allegations contained in paragraph 40.

41. Plaintiff states that the allegations in the Complaint speak for themselves, and Plaintiff denies the allegations contained in paragraph 41 to the extent that they are inconsistent with the Complaint.

42. In answer to the allegations contained in the first sentence of paragraph 42, Plaintiff states that the allegations contained in the Complaint speak for themselves, and Plaintiff denies the allegations contained in the first sentence of paragraph 42 to the extent they are inconsistent with the Complaint. Plaintiff denies the remaining allegations contained in paragraph 42 of the Complaint.

43. Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 and therefore those allegations are denied. In further answer, Plaintiff states that Defendant Edward Hanrahan was at all times material to the Complaint acting as an agent of Leaders Group and was acting within the scope of his agency relationship.

44. Plaintiff states that the allegations contained in Plaintiff's Complaint speak for themselves, and Plaintiff denies the allegations contained in paragraph 44 to the extent that they are inconsistent with the Complaint.

45. In answer to the allegations contained in paragraph 45, Plaintiff admits the allegations that Leaders Group filed a motion to dismiss and further states that the Court's Opinion and Order, dated June 2, 2010, speaks for itself, and Plaintiff denies the remaining allegations contained in paragraph 45 to the extent they are inconsistent with the Court's Opinions and Order.

46. In answer to the allegations contained in paragraph 46, Plaintiff states that the Court's Opinion and Order, dated June 2, 2010, speaks for itself, and Plaintiff denies the allegations contained in paragraph 46 to the extent that they are inconsistent with the Court's Opinion and Order.

47. In answer to the allegations contained in paragraph 47, Plaintiff states that the Court's Opinion and Order, dated June 2, 2010, speaks for itself, and Plaintiff denies the allegations contained in paragraph 47 to the extent that they are inconsistent with the Court's Opinion and Order.

48. In answer to the allegations contained in paragraph 48, Plaintiff states that the Court's Opinion and Order, dated June 2, 2010, speaks for itself, and Plaintiff denies the allegations contained in paragraph 48 to the extent that they are inconsistent with the Court's Opinion and Order.

49. Plaintiff denies the allegations contained in paragraph 49.

COUNT I - INDEMNIFICATION

50. Plaintiff repeats and restates its responses to paragraph 1 – 49 of the Counterclaim as if fully set forth herein.

51. Plaintiff admits that it entered into the 2002 Agreement with Leaders Group, and Plaintiff denies any remaining allegations contained in paragraph 51 based on the definition and description of the "2002 Agreement" contained in paragraph 16 of the Counterclaim.

52. Plaintiff admits that the 2002 Agreement constitutes a binding contract between Plaintiff and Leaders Group, and Plaintiff denies any remaining allegations contained in paragraph 52 based on the definition and description of the “2002 Agreement” contained in paragraph 16 of the Counterclaim.

53. Plaintiff denies the allegations contained in paragraph 53.

54. Plaintiff denies the allegations contained in paragraph 54.

55. Plaintiff admits that the 2002 Agreement contains an indemnification clause but denies any remaining allegations contained in paragraph 55 based on the definition and description of the “2002 Agreement” contained in paragraph 16 of the Counterclaim.

56. Plaintiff states that the terms of the 2002 Agreement speak for themselves, and Plaintiff denies the allegations contained in paragraph 56 to the extent that they are inconsistent with the 2002 Agreement.

57. Plaintiff states that the terms of the 2002 Agreement speak for themselves, and Plaintiff denies the allegations contained in paragraph 57 to the extent that they are inconsistent with the 2002 Agreement.

58. Plaintiff is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 and therefore those allegations are denied.

59. Plaintiff denies the allegations contained in paragraph 59.

60. Plaintiff denies the allegations contained in paragraph 60.

61. Plaintiff denies the allegations contained in paragraph 61.

62. Plaintiff denies the allegations contained in paragraph 62.

SEPARATE AND ADDITIONAL DEFENSES

By alleging the defenses set forth below, Plaintiff is not agreeing or conceding that it has the burden of proof or the burden of persuasion on any of the issues raised in the defenses.

Further, all such defenses are pled in the alternative and do not constitute an admission of liability or that Leaders Group is entitled to any relief whatsoever. Plaintiff expressly reserves the right to amend and/or supplement its defenses.

First Affirmative Defense

Leaders Group's Counterclaim fails to state a claim upon which relief can be granted.

Second Affirmative Defense

Leaders Group's Counterclaim is barred, in whole or in part, by the doctrine of waiver.

Third Affirmative Defense

Leaders Group's Counterclaim is barred, in whole or in part, under the doctrine of estoppel.

Fourth Affirmative Defense

Leaders Group's Counterclaim is barred in whole or in part, by the doctrine of unclean hands.

Fifth Affirmative Defense

Leaders Group cannot recover on its Counterclaim because it had a duty to mitigate its alleged damages, but failed to do so.

Sixth Affirmative Defense

Leaders Group's Counterclaim is barred or reduced by Leaders Group's breaches of contract.

Seventh Affirmative Defense

Leaders Group's Counterclaim is barred by reason of its failure to perform its obligations under the contract.

Eighth Affirmative Defense

Leaders Group's Counterclaim is barred, in whole or in part, because Leaders Group's damages, if any, were caused by Leaders Group's own acts or omissions.

Ninth Affirmative Defense

Leaders Group's Counterclaim is barred, in whole or in part, to the extent that its damages, if any, resulted from the acts, omissions, or culpable conduct of some other person or persons for whom Plaintiff is not legally responsible.

Tenth Affirmative Defense

Any amount sought to be recovered by Leaders Group on its Counterclaim is barred by Plaintiff's right of offset based on the amounts due to Plaintiffs from Leaders Group by way of damages.

Eleventh Affirmative Defense

Plaintiff has not knowingly or intentionally waived any applicable affirmative defense and reserves the right to assert and rely on such other applicable affirmative defenses as may later become available or apparent. Plaintiff further reserves the right to amend its answer and affirmative defenses accordingly and/or to delete affirmative defenses that it determines are not applicable during the course of discovery in this action.

Dated: April 7, 2011

Respectfully submitted

/s/ Brooks R. Magratten

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CERTIFICATE OF SERVICE

I certify that the within document was electronically filed with the clerk of the court on April 7, 2011, and that it is available for viewing and downloading from the Court's ECF system. Service by electronic means has been effectuated on all counsel of record.

/s/ Michael J. Daly _____