

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Names of Claimants

Ronald and Erika Mitchell

and

Case Number: 01-02559
Hearing Site: Southfield, Michigan

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
Washington Square Securities, Inc.
Herbert L. Wingo, Jacquelin A. Moody, and
Park Avenue Financial

REPRESENTATION OF PARTIES

Ronald and Erika Mitchell ("Claimants") were represented by Anthony V. Trogan, Esq., and Lysa Postula-Stein, Esq., Law Offices of Anthony V. Trogan, P.L.L.C., West Bloomfield, Michigan.

Merrill Lynch Pierce Fenner & Smith, Inc. ("MLPFS") and Herbert L. Wingo ("Wingo") were represented by Clarence L. Pozza, Jr., Esq., and W. Scott Turnbull, Esq., Miller Canfield, Detroit, Michigan. NASD was advised of Mr. Wingo's death on or about October 18, 2002.

Washington Square Securities, Inc. ("WSSI") was represented by Melvin G. Moseley, Jr., Esq., and Brian Masternak, Esq., Warner Norcross & Judd, LLP, Grand Rapids, Michigan

Jacquelin A. Moody ("Moody") and Park Avenue Financial ("PAF") were represented by William B. Forrest, Esq., and Dennis J. Levasseur, Esq., Bodman, Longley & Dahling, LLP, Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about May 15, 2001. The Submission Agreement of Claimant Ronald Mitchell was signed on or about May 5, 2001. The Submission Agreement of Claimant Erika Mitchell was signed on or about May 5, 2001.

Statement of Answer was filed by Respondents MLPFS and Wingo on or about August 1, 2001.

Statement of Answer was filed by Respondent WSSI on or about August 6, 2001. The Submission Agreement of Respondent WSSI was signed on or about June 26, 2001.

Statement of Answer was filed by Respondent Moody and PAF on or about August 1, 2001. Respondent Moody's Amended Answer to Statement of Claim was filed on or about August 14, 2001. The Submission Agreement of Respondent Moody was signed on or about July 18, 2001.

Respondent WSSI filed a Motion to Dismiss on or about September 9, 2001. On or about September 10, 2001, Respondent Moody filed her Concurrence in Respondent WSSI's Motion. Claimants' filed their Response to Respondents' Motion to Dismiss on or about September 13, 2001. Respondent WSSI filed its Reply to Claimants' Brief in Opposition to Motion to Dismiss Claimants' Statement of Claim on or about October 2, 2001.

CASE SUMMARY

Claimants asserted the following legal theories: breach of contract, common law fraud, conspiracy, promissory estoppel, conversion, negligence, malpractice, breach of fiduciary duty, breach of Michigan securities law, and violation of Michigan Consumer's Protection Law. The causes of action relate to the alleged mismanagement of Claimants' various investment accounts by Respondents.

Unless specifically admitted in their Answer, Respondents MLPFS and Wingo denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim fails to state a claim against Respondents MLPFS and Wingo upon which relief can be granted, Claimants are estopped by their own conduct from asserting against Respondents MLPFS and Wingo any and all claims alleged in the Statement of Claim, Claimants, acting with full knowledge and notice of the facts, ratified approved accepted, acquiesced and confirmed in all respects the acts complained of in the Statement of Claim, and Claimants have not suffered any damages.

Unless specifically admitted in its Answer, Respondent WSSI denied the allegations made in the Statement of Claim and asserted affirmative defenses the following: Claimants have failed to state a claim upon which relief can be granted, some of Claimants' claims are barred by the applicable statute of limitations, Claimants' claims are barred by the doctrines of laches, estoppel and/or equitable estoppel, Claimants' claims are barred based on their comparative negligence or failure to mitigate, and Claimants assumed the risk of loss in accordance with their investment objectives.

Unless specifically admitted in their Answer, Respondents Moody and PAF denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: Claimants have failed, in whole or in part, to state a claim upon which relief can be granted, Claimants' claims are barred by the applicable statute of limitation, Claimants' claims are barred, in whole or in part, under the equitable principles of estoppel, waiver, ratification, and/or laches, Claimants fully understood and willingly understood the risks associated with the subject investments, Respondents Moody and PAP were not a fiduciary of the Claimants, and Claimants have failed to mitigate their alleged damages.

RELIEF REQUESTED

Claimant requested an award in the amount of \$4,840,000.00 in out-of-pocket losses, plus interest, costs, attorney fees, punitive and exemplary damages, additional damages as allowed by the Panel, and rescission.

Respondents MLPFS and Wingo requested that the claims asserted against them be denied in all respects and dismissed with prejudice, and that they be awarded their costs, attorneys' fees, and such other and further relief as the Panel deems just and proper.

Respondent WSSI requested that the claims asserted against all Respondents be dismissed with prejudice, that the Panel recommend expungement of all such claims from the CRDs of Respondents, and that Respondents be awarded their costs, attorneys' fees, and expenses associated with defending this matter.

Respondents Moody and PAF requested that the claims asserted against them be dismissed with prejudice, that the Panel award the expenses of arbitration against Claimants, including reasonable attorney fees, and that Moody and PAF be awarded such other and further relief as the Panel deems just and proper.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Merrill Lynch Pierce Fenner & Smith, Inc. and Park Avenue Financial did not file with the NASD Dispute Resolution properly executed submissions to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim and appeared and testified at the hearing through representatives are bound by the determination of the arbitration panel on all issues submitted.

Respondent, Herbert L. Wingo, did not file with the NASD Dispute Resolution a properly executed submission to arbitration but is required to submit to arbitration pursuant to Rule 10301 of the NASD Code of Arbitration Procedure (the "Code") and having answered the claim, is bound by the determination of the arbitration panel on all issues submitted.

The Panel denied the Motions to Dismiss filed by Respondents WSSI and Moody.

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. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with the NASD Dispute Resolution (the "NASD").

AWARD

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

- 1.) Claimants' claims, each and all, are dismissed with prejudice;
- 2.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter;
- 3.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Merrill Lynch Pierce Fenner and Smith's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent MLPFS must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 4.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Herbert Wingo's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Wingo must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 5.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Washington Square Securities, Inc.'s registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Washington Square Securities, Inc. must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 6.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Jacquelin Moody's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Moody must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 7.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Park Avenue Financial's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Park Avenue Financial must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 8.) That any relief not specifically enumerated, including punitive/ exemplary damages and attorney fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fees for each claim:

Initial claim filing fee = \$600.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firms are Merrill Lynch Pierce Fenner & Smith, Inc. and Washington Square Securities, Inc.

Member surcharge = \$2,500.00
Pre-hearing process fee = \$ 600.00
Hearing process fee = \$4,500.00

Forum Fees and Assessments

The Arbitration 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 a single arbitrator x \$450.00 = \$ 450.00
Pre-hearing conference: May 17, 2002 1 session

One (1) Pre-hearing session with Panel x \$1,200.00 = \$1,200.00
Pre-hearing conference: February 7, 2002 1 session

Six (6) Hearing sessions x \$1,200.00 = \$7,200.00
Hearing Dates: October 22, 2002 2 sessions
October 23, 2002 2 sessions
October 24, 2002 2 sessions

Total Forum Fees = \$8,850.00

The Arbitration Panel has assessed \$8,850.00 of the forum fees to Ronald and Erika Mitchell, jointly and severally.

Fee Summary

Claimants, Ronald and Erika Mitchell, are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 8,850.00
Total Fees	= \$ 9,450.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 7,650.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

Member Fees	= \$ 7,600.00
Total Fees	= \$ 7,600.00
Less payments	= \$ 3,700.00
Balance Due NASD Dispute Resolution	= \$ 3,900.00

Respondent, Washington Square Securities, Inc., is liable for:

Member Fees	= \$ 7,600.00
Total Fees	= \$ 7,600.00
Less payments	= \$ 7,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Timothy J. Currier, Esq. - Public Arbitrator, Presiding Chair
Richard Joseph Rankin, Esq. - Public Arbitrator
James Richter - Non-Public Arbitrator

Concurring Arbitrators:

/s/ Timothy J. Currier
Timothy J. Currier, Esq.
Public Arbitrator, Presiding Chair

11/20/01
Signature Date

/s/ Richard Joseph Rankin
Richard Joseph Rankin, Esq.
Public Arbitrator

11/20/01
Signature Date

/s/ James Richter
James Richter
Non-Public Arbitrator

11/20/01
Signature Date

11/21/02
Date of Service (For NASD office use only)

NASD Dispute Resolution
Arbitration No. 01-02559
Award Page 5 of 8

Fee Summary

Claimants, Ronald and Erika Mitchell, are jointly and severally liable for:

Initial Filing Fee	= \$ 600.00
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Member Fees	= \$ 7,600.00
Total Fees	= \$ 7,600.00
Less payments	= \$ 3,700.00
Balance Due NASD Dispute Resolution	= \$ 3,900.00

Respondent, Washington Square Securities, Inc., is liable for:


Member Fees	= \$ 7,600.00
Total Fees	= \$ 7,600.00
Less payments	= \$ 7,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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ARBITRATION PANEL

Timothy J. Currier, Esq. - Public Arbitrator, Presiding Chair
Richard Joseph Rankin, Esq. - Public Arbitrator
James Richter - Non-Public Arbitrator

Concurring Arbitrators:


Timothy J. Currier, Esq.
Public Arbitrator, Presiding Chair

11-20-02
Signature Date


Richard Joseph Rankin, Esq.
Public Arbitrator

Signature Date


James Richter
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

11/19/02 TUE 14:23 FAX

NASD Dispute Resolution
Arbitration No. 01-02559
Award Page 6 of 6

Fee Summary

Claimants, Ronald and Erika Mitchell, are jointly and severally liable for:

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Total Fees	= \$ 9,450.00
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Balance Due NASD Dispute Resolution	= \$ 7,650.00

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

Member Fees	= \$ 7,600.00
Total Fees	= \$ 7,600.00
Less payments	= \$ 3,700.00
Balance Due NASD Dispute Resolution	= \$ 3,900.00

Respondent, Washington Square Securities, Inc., is liable for:

Member Fees	= \$ 7,600.00
Total Fees	= \$ 7,600.00
Less payments	= \$ 7,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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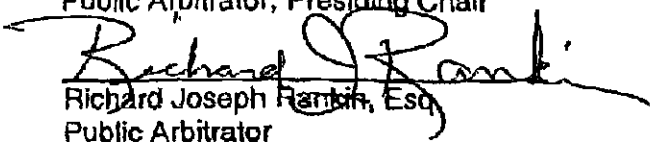
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Richard Joseph Rankin, Esq. - Public Arbitrator
James Richter - Non-Public Arbitrator

Concurring Arbitrators:

Timothy J. Currier, Esq.
Public Arbitrator, Presiding Chair

Signature Date


Richard Joseph Rankin, Esq.
Public Arbitrator

Signature Date

James Richter
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

Member Fees	= \$ 7,600.00
Total Fees	= \$ 7,600.00
Less payments	= \$ 3,700.00
Balance Due NASD Dispute Resolution	= \$ 3,900.00

Respondent, Washington Square Securities, Inc., is liable for:

Member Fees	= \$ 7,600.00
Total Fees	= \$ 7,600.00
Less payments	= \$ 7,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

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ARBITRATION PANEL

Timothy J. Currier, Esq. - Public Arbitrator, Presiding Chair
Richard Joseph Rankin, Esq. - Public Arbitrator
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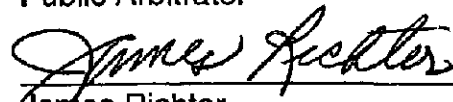
Concurring Arbitrators:

Timothy J. Currier, Esq.
Public Arbitrator, Presiding Chair

Signature Date

Richard Joseph Rankin, Esq.
Public Arbitrator

Signature Date



James Richter
Non-Public Arbitrator

Nov. 20, 2002

Signature Date

Date of Service (For NASD office use only)