

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Sondra L. Thorn

and

Case Number: 02-05250
Hearing Site: Troy, Michigan

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc. and
Brian S. Launstein

REPRESENTATION OF PARTIES

Sondra L. Thorn ("Thorn" or "Claimant") was represented by Laurence S. Schultz, Esq., Driggers, Schultz & Herbst, Troy, Michigan.

Merrill Lynch Pierce Fenner & Smith, Inc. ("MLPFS") and Brian S. Launstein ("Launstein"), hereinafter referred to as "Respondents" were represented by Clarence L. Pozza, Jr., Esq. and W. Scott Turnbull, Esq., Miller, Canfield, Paddock and Stone, PLC., Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about August 29, 2002. The Submission Agreement of Claimant Sondra L. Thorn was signed on or about August 22, 2002.

Statement of Answer was filed jointly by Respondents MLPFS and Launstein on or about November 1, 2002. The Submission Agreement of Respondent Merrill Lynch Pierce Fenner & Smith, Inc. was signed on or about October 7, 2002, by Michael E. Olney.

Claimant filed a Motion for Sanctions on or about July 11, 2003.

CASE SUMMARY

Claimant asserted the following legal basis for the claims: breach of fiduciary duty, misrepresentations and deceptive devices, breach of contract, violations of NASD rules, violations of NYSE rules, and respondeat superior. The causes of action relate to Respondents' alleged recommendations that Claimant invest in tech stocks and mutual funds, and take out a margin loan.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim and all claims therein fail to state a claim upon which relief can be granted, the Statement of Claim and all claims therein are barred by reason of the applicable statute of limitations or other periods of limitations, the Statement of Claim and all claims therein are barred by reason of Claimant's negligence, comparative negligence and contributory negligence, the Statement of Claim and all claims therein are barred by

reason of Claimant's ratification of the actions complained of therein, and the Statement of Claim and all claims therein are barred by reason of the doctrines of waiver, estoppel, laches and release.

RELIEF REQUESTED

Claimant requested an award in excess of \$140,000.00, plus refund of commissions, lost opportunity, exemplary/punitive damages, interest, costs, forum fees, attorneys' fees, plus such other damages or relief as may be awarded.

Respondents requested that the claims asserted against them be dismissed with prejudice and that they be awarded their costs, expenses, attorneys' fees, and any other relief as is just and appropriate. Respondent Launstein requested that all references to this matter be expunged from his CRD record.

OTHER ISSUES CONSIDERED & DECIDED

Respondent Brian S. Launstein 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, appeared and testified at the hearing is bound by the determination of the arbitration panel on all issues submitted.

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.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., and Brian S. Launstein, are jointly and severally liable for and shall pay to Claimant, Sondra L. Thorn, the sum of \$13,000.00 in compensatory damages;
- 2.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., and Brian S. Launstein, are jointly and severally liable for and shall pay to Claimant, Sondra L. Thorn, interest on the above-stated sum pursuant to the Michigan Money Judgment Interest Rate, from and including August 22, 2002, through and including the NASD Service date;
- 3.) Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., and Brian S.

Launstein, are jointly and severally liable for and shall pay the forum fees for the Pre-Hearing Conference held on July 16, 2003, as Discovery Sanctions;

- 4.) That other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; and
- 5.) 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 or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 300.00

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 persons at the time of the events giving rise to the dispute. In this matter, the member firm is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge = \$1,700.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2,750.00

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:

Two (2) Pre-hearing sessions with a single arbitrator x \$450.00 = \$ 900.00

Pre-hearing conferences: February 13, 2003 1 session
July 16, 2003 1 session

Six (6) Hearing sessions x \$1,125.00 = \$6,750.00

Hearing Dates: July 23, 2003 2 sessions
July 24, 2003 2 sessions
July 25, 2003 2 sessions

Total Forum Fees = \$7,650.00

The Arbitration Panel has assessed \$7,650.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith, Inc. and Brian S. Launstein.

Fee Summary

Claimant, Sondra L. Thorn, is liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
Balance Refunded by NASD Dispute Resolution	= \$ 1,125.00

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

Member Fees	= \$ 5,200.00
Total Fees	= \$ 5,200.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc. and Brian S. Launstein, are jointly and severally liable for:

Forum Fees ¹	= \$ 7,650.00
Total Fees	= \$ 7,650.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 7,650.00

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
Thomas Anthony Van Tiem, Esq. - Public Arbitrator
Nancy R. Papo - Non-Public Arbitrator

Concurring Arbitrators:

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

08/01/03
Signature Date

/s/ Thomas Anthony Van Tiem, Esq.
Thomas Anthony Van Tiem, Esq.
Public Arbitrator

08/02/03
Signature Date

/s/ Nancy R. Papo
Nancy R. Papo
Non-Public Arbitrator

08/04/03
Signature Date

08/05/03
Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 02-05250
 Award Page 4 of 4

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 Public Arbitrator, Presiding Chair

 Signature Date

 Thomas Anthony Van Tiem, Esq.
 Public Arbitrator

 Signature Date

Nancy R. Papo

 Nancy R. Papo
 Non-Public Arbitrator

8-04-03

 Signature Date

INDUSTRY ARBITRATOR

 Date of Service (For NASD office use only)

NASD Dispute Resolution
 Arbitration No. 02-05250
 Award Page 4 of 4

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 Public Arbitrator, Presiding Chair

Signature Date

Thomas A. Van Tiem, Jr.
 Thomas Anthony Van Tiem, Esq.
 Public Arbitrator

08/02/03
 Signature Date

Nancy R. Papo
 Non-Public Arbitrator

Signature Date

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NASD Dispute Resolution
Arbitration No. 02-05250
Award Page 4 of 4

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Public Arbitrator, Presiding Chair

8-1-03

Signature Date

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Public Arbitrator

Signature Date

Nancy R. Papo
Non-Public Arbitrator

Signature Date

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