

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

David Green and Allen Green,
Co-Executors for the Estate of Beatrice Green

and

Case Number: 02-06212
Hearing Site: Southfield, Michigan

Names of Respondents

Merrill Lynch Pierce Fenner & Smith
and Anne Cook-Kuhnle

NATURE OF DISPUTE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

The Estate of Beatrice Green ("Claimant") was represented by Daniel J. Kornstein, Esq., Kornstein Veisz & Pollard, LLP, New York, New York.

Merrill Lynch Pierce Fenner & Smith ("MLPFS") and Anne Cook-Kuhnle a/k/a Anne-Kuhnle ("Kuhnle"), hereinafter referred to as "Respondents," were represented by Michael Coakley, Esq. and Thomas R. Cox, Esq., Miller Canfield Paddock and Stone, PLC, Detroit, Michigan.

CASE INFORMATION

The Statement of Claim was filed on or about October 17, 2002. The Submission Agreement of Claimant, the Estate of Beatrice Green, was signed by David Green, Co-Executor on or about October 15, 2002, and Alan Green, Co-Executor on or about October 28, 2002.

Respondents' Request for Determination of Initial Hearing Location, Statement of Answer and Notice of Affirmative and Other Defenses was filed jointly by Respondents MLPFS and Kuhnle on or about January 17, 2003. The Submission Agreement of Respondent Merrill Lynch Pierce Fenner & Smith was signed on or about December 17, 2002.

CASE SUMMARY

Claimant asserted the following causes of action: unsuitability, breach of fiduciary duty, and conflict of interest. The causes of action related to the purchase and sale of various securities including, Oppenheimer Strategic Income Fund, Oppenheimer U.S. Government Trust Alliance Municipal Income New York Fund, and AIM Charter Fund. Claimant alleged that Respondents exercised effective control over Claimant's account, engaged in excessive and inappropriate trades that were unsuitable given Claimant's circumstances, needs, and objectives, in violation of NASD Rules and in willful and reckless disregard for Claimant's interests.

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 statutes of limitation or other period of limitations; the Statement of Claim and all claims therein are barred by reason of Claimants' negligence, comparative negligence and contributory negligence.

RELIEF REQUESTED

Claimant requested an award of compensatory damages of at least \$200,000.00, plus interest, punitive damages of \$5,000,000.00, and such other and further relief as the Panel deemed just.

Respondents requested that the claims asserted against them be dismissed with prejudice and that Respondent Kuhnle's CRD record be expunged of all references to this matter.

OTHER ISSUES CONSIDERED & DECIDED

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

There was no objection to holding the hearing in the Detroit, Michigan vicinity. Pursuant to Rule 10315 of the Code, the hearing location was set in Detroit.

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 NASD Dispute Resolution ("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.) Claimant's claims, each and all, are denied and dismissed with prejudice;
- 2.) 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 Anne Cook-Kuhnle's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Anne Cook-Kuhnle must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive; and
- 4.) Any relief not specifically enumerated, including punitive 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 = \$ 600.00

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

Member surcharge = \$ 3,350.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 5,500.00

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 Panel x \$1,200.00 = \$ 1,200.00

Pre-hearing conference: May 30, 2003 1 session

Ten (10) Hearing sessions x \$1,200.00 = \$12,000.00

Hearing Dates: December 2, 2003 2 sessions
December 3, 2003 2 sessions
December 4, 2003 2 sessions
March 16, 2003 2 sessions
March 17, 2003 2 sessions

Total Forum Fees = \$13,200.00

The Arbitration Panel has assessed \$6,600.00 of the forum fees to David Green and Allen Green, Co-Executors for the Estate of Beatrice Green.

The Arbitration Panel has assessed \$6,600.00 of the forum fees jointly and severally to Merrill Lynch Pierce Fenner & Smith and Anne Kuhnle.

Fee Summary

Claimant, David Green and Allen Green, Co-Executors for the Estate of Beatrice Green, is liable for:

Initial Filing Fee	= \$ 600.00
Forum Fees	= \$ 6,600.00
Total Fees	= \$ 7,200.00
Less payments	= \$ 1,800.00
Balance Due NASD Dispute Resolution	= \$ 5,400.00

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

Member Fees	= \$ 9,600.00
Total Fees	= \$ 9,600.00
Less payments	= \$ 9,600.00
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondents, Merrill Lynch Pierce Fenner & Smith and Anne Kuhnle, are jointly and severally liable for:

Forum Fees	= \$ 6,600.00
Total Fees	= \$ 6,600.00
Less payments	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 6,600.00

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

ARBITRATION PANEL

Richard Joseph Rankin, Esq. - Public Arbitrator, Presiding Chair
Jerome D. Sobczak - Public Arbitrator
George E. White, Esq. - Non-Public Arbitrator

Concurring Arbitrators:

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

03/18/04
Signature Date

/s/ Jerome D. Sobczak
Jerome D. Sobczak
Public Arbitrator

03/18/04
Signature Date

/s/ George E. White
George E. White
Non-Public Arbitrator

03/18/04
Signature Date

03/19/04
Date of Service (For NASD office use only)

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ARBITRATION PANEL

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Public Arbitrator, Presiding Chair

Signature Date

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Public Arbitrator

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Public Arbitrator

Signature Date



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Non-Public Arbitrator

3/18/04

Signature Date

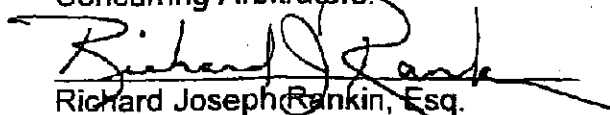
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3-18-04
Signature Date

Jerome D. Sobczak
Public Arbitrator

Signature Date

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