

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Susan Pardo as beneficiary of the Susan Pardo IRA, Susan Wilson individually and as beneficiary of the Susan Wilson IRA and the Susan Wilson IRA, Douglas Wilson, The Pardo Decedent Trust dtd 7/7/87, The Pardo Survivors Trust dtd 7/7/87 and The Susan Pardo Irrevocable Family Trust, Claimants v. Merrill Lynch Pierce Fenner & Smith Inc., Respondent

Case Number: 02-06713

Hearing Site: Los Angeles, California

Nature of the Dispute: Customers v. Member

REPRESENTATION OF PARTIES

For Claimants:

David Harrison, Esq.
Spivak & Harrison, LLP
Los Angeles, California

For Respondent:

Peter Brown Dolan, Esq.
The Dolan Law Firm
Los Angeles, California

CASE INFORMATION

Statement of Claim filed: November 5, 2002

Claimants' Joint Uniform Submission Agreement signed: October 17, 2002

Statement of Answer filed: January 10, 2003

Respondent's Uniform Submission Agreement signed: January 3, 2003

CASE SUMMARY

Claimants alleged breach of fiduciary duty, unsuitability, unauthorized trading, fraud, elder abuse, violation of federal and state securities laws, violation of NASD and NYSE Rules and failure to supervise. Claimants' allegations involved use of margin and transactions in Munder Netnet Fund, Invesco Telecom Fund, Robert Stephenson Emerging Growth Fund, Janus Venture Fund,

Putnam International Growth Fund, Van Kampen Emerging Growth Fund, Janus Enterprise Fund, Janus Mercury Fund, Alliance Premier Growth Fund, Broadcom, Exodus Communications, Infospace, and other unspecified technology and internet-related securities.

Respondent denied the allegations of wrongdoing set forth in the Claimants' Statement of Claim.

RELIEF REQUESTED

Claimants requested \$383,318.00 in compensatory damages, disgorgement and restitution of all earnings, profits, compensation and benefits received by Respondent, unspecified punitive damages, treble damages, pre- and post-judgment interest and costs, including attorney's fees.

Respondent requested dismissal of the Claimant's Statement of Claim in its entirety and costs.

OTHER ISSUES CONSIDERED AND DECIDED

On December 23, 2002, Claimants Susan Pardo, individually and as trustee of The Pardo Decedent Trust dtd 7/7/87 and The Pardo Survivors Trust dtd 7/7/87 and said Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On December 6, 2002, Claimant Lois Wilson, both individually and as trustee of The Susan Pardo Susan Pardo Irrevocable Family Trust, Doug Wilson and said Claimants' counsel signed a Waiver Agreement expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

On July 3, 2003, Respondent's counsel signed a Waiver Agreement on Respondent's behalf expressly waiving any and all rights and benefits under California Civil Code Section 1542 and the California Ethical Standards for Neutral Arbitrators.

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

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

- 1) Respondent is liable to and shall pay Claimant The Susan Pardo IRA the sum of \$14,862.00 in compensatory damages.
- 2) Respondent is liable to and shall pay The Pardo Decedent Trust dtd 7/7/87 the sum of \$11,963.00 in compensatory damages.
- 3) Respondent is liable to and shall pay Claimant The Pardo Survivors Trust dtd 7/7/87 the sum of \$40,032.00 in compensatory damages.
- 4) Respondent is liable to and shall pay The Susan Pardo Irrevocable Family Trust the sum of \$57,000.00 in compensatory damages.
- 5) Respondent is liable to and shall pay Claimant The Susan Wilson IRA the sum of \$3,380.00 in compensatory damages.
- 6) Respondent is liable to and shall pay Claimant The Susan Wilson IRRRA the sum of \$3,450.00 in compensatory damages.
- 7) Respondent is liable to and shall pay Susan Wilson and Douglas Wilson the sum of \$7,400.00 in compensatory damages.
- 8) Respondent is liable to and shall pay Claimants the sum of \$10,000.00 as reimbursement for expert witness fees.
- 9) With the exception of paragraph 8, above, the parties shall bear their respective costs, including attorney's fees.
- 10) This Award shall bear interest at the rate of 6% per annum on any balance that remains unpaid thirty (30) days after receipt hereof, unless a motion to vacate has been filed with a court of competent jurisdiction. If this award is the subject of a motion to vacate that is subsequently denied, this award shall bear interest at the rate of 6% per annum on any balance that remains unpaid from date of the court's order denying said motion to vacate.
- 11) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ 500.00
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch Pierce Fenner & Smith Inc. is a party and the following fees are assessed:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Process Fee	= \$ 750.00
<u>Hearing Process Fee</u>	<u>= \$ 5,000.00</u>
Total Member Fees	= \$ 8,550.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

One (1) Pre-hearing conference session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: December 17, 2003 1 session	
One (1) Pre-hearing conference session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: March 28, 2003 1 session	
Nine (9) Hearing sessions @ \$1,200.00/session	= \$10,800.00
Hearings: February 23, 2004 1 session	
February 24, 2004 2 sessions	
February 25, 2004 2 sessions	
February 26, 2004 2 sessions	
February 27, 2004 2 sessions	
Total Forum Fees	= \$12,450.00

The Panel assessed the entire balance of the forum fees, in the amount of \$12,450.00 to Respondent.

Fee Summary

1. Claimants are charged jointly and severally with the following fees and costs:

Initial Filing Fee	= \$ 500.00
<u>Less payments</u>	= <u>\$(1,425.00)</u>
Refund Due from NASD Dispute Resolution	= \$ (925.00)

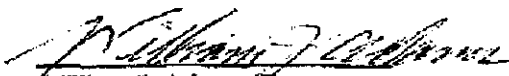
2. Respondent is charged with the following fees and costs:

Member Fees	= \$ 8,550.00
<u>Forum Fees</u>	= <u>\$12,450.00</u>
Total Fees	= \$21,000.00
<u>Less payments</u>	= <u>\$(5,200.00)</u>
Balance Due NASD Dispute Resolution	= \$15,800.00

ARBITRATION PANEL

<i>William J. Adams, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Philip F. Brady</i>	-	<i>Public Arbitrator</i>
<i>Walter R. Whitman</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures


William J. Adams, Esq.
Chair, Public Arbitrator

3/10/04
Signature Date

Philip F. Brady
Public Arbitrator

Signature Date

Walter R. Whitman
Non-Public Arbitrator

Signature Date

3/10/04
Date of Service

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Chair, Public Arbitrator

Signature Date

Philip F. Brady
Philip F. Brady
Public Arbitrator

3-9-04
Signature Date

Walter R. Whitman
Non-Public Arbitrator

Signature Date

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Public Arbitrator

Signature Date



Walter R. Whitman
Non-Public Arbitrator

3/10/04

Signature Date

3/10/04

Date of Service