
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Names of the Claimants

Patricia B. Coleman, Trustee and William J. Coleman, Trustee
U/A DTD 09/16/1988 by The Coleman Trust

Case Number: 03-01604

Name of the Respondent

Merrill Lynch, Pierce, Fenner & Smith, Inc.

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Patricia B. Coleman, Trustee and William J. Coleman, Trustee U/A DTD 09/16/1988 by The Coleman Trust, hereinafter collectively referred to as "Claimants": Michael J. Stanton, Esq., James, Hoyer, Newcomer & Smiljanich, P.A., Tampa, Florida.

For Merrill Lynch, Pierce, Fenner & Smith, Inc., hereinafter referred to as "Respondent": Bennett Falk, Esq. and Lillian Real, Esq., Bressler, Amery & Ross, P.C., Miramar, Florida.

CASE INFORMATION

Statement of Claim filed on or about: March 3, 2003.

Claimants signed the Uniform Submission Agreements: March 20, 2003.

Statement of Answer filed by Respondent on or about: May 9, 2003.

Respondent signed the Uniform Submission Agreement: April 24, 2003.

CASE SUMMARY

Claimants asserted the following causes of action: negligence; breach of fiduciary duty; and, fraudulent inducement. The causes of action relate to the purchase in Claimants' account of shares of the common stock, ICGE.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$11,270.44, costs of this action, including all fees and expenses of this proceeding, and such other relief as deemed appropriate by the undersigned arbitrator (the "Arbitrator").

Respondent requested that Claimants' claims be dismissed in their entirety, that all costs of this arbitration be assessed against Claimants, and that Respondent be awarded such other and further relief as deemed just and proper by the Arbitrator.

OTHER ISSUES CONSIDERED AND DECIDED

On or about April 21, 2004, the parties requested that the Arbitrator make a final determination of this matter on the papers in lieu of conducting an evidentiary hearing, to which the Arbitrator agreed. The Arbitrator provided the parties with an opportunity to file written submissions with evidentiary attachments for the Arbitrator's consideration before the Arbitrator rendered a final decision.

AWARD

After considering the pleadings, hearing briefs, and the entire record in this matter, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

No damages are awarded to Claimants.

Claimants' claims are denied in their entirety and dismissed, with prejudice.

Any and all claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (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	= \$125.00
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The Arbitrator has determined to waive the initial claim filing fee in this matter.

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, Respondent is a member firm and a party.

<u>Member Surcharge</u>	= \$425.00
Total Member Fees	= \$425.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournment fees were incurred in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session.

No three-day cancellation fees were assessed in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Arbitrator.

Injunctive relief fees were not assessed in this matter.

Forum Fees and Assessments

Forum fees are assessed by the Arbitrator for each session conducted. A 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.

Two (2) Pre-hearing sessions with the Arbitrator @ \$450.00/session = \$900.00

Pre-hearing conferences: October 6, 2003 1 session
 July 30, 2004 1 session

Total Forum Fees = \$900.00

The Panel has assessed forum fees of \$450.00 to Claimants, jointly and severally.

The Panel has assessed forum fees of \$450.00 to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

There were no administrative costs incurred in this matter.

Fee Summary

Claimants are jointly and severally liable for:

Initial Filing Fee = \$125.00

Forum Fees = \$450.00

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Total Fees	= \$575.00
<u>Less Payments</u>	<u>= \$575.00</u>
Balance Due NASD Dispute Resolution	= \$ 0.00

Respondent is solely liable for:

Member Fees	= \$425.00
<u>Forum Fees</u>	<u>= \$450.00</u>
Total Fees	= \$875.00
<u>Less Payments</u>	<u>= \$875.00</u>
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.

ARBITRATOR

Marc Gertner, Esq.

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Public Arbitrator

Arbitrator's Signature

/s/

Marc Gertner, Esq.
Public Arbitrator

May 31, 2005
Signature Date

May 31, 2005
Date of Service (For NASD Dispute Resolution office use only)

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Total Fees

Less Payments

Balance Due NASD Dispute Resolution

= \$575.00

= \$575.00

= \$ 0.00

Respondent is solely liable for:

Member Fees

Forum Fees

Total Fees

Less Payments

Balance Due NASD Dispute Resolution

= \$425.00

= \$450.00

= \$875.00

= \$875.00

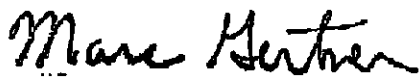
= \$ 0.00

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

ARBITRATOR

Marc Gertner, Esq.

Public Arbitrator

Arbitrator's SignatureMarc Gertner, Esq.
Public ArbitratorMay 31, 2005

Signature Date

Date of Service (For NASD Dispute Resolution office use only)