

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Thalia Karakitsios IRA (Claimant) v. Merrill Lynch, Pierce, Fenner & Smith, Inc.
(Respondent)

Case Number: 03-03624

Hearing Site: New York, New York

Nature of the Dispute: Customer v. Member.

REPRESENTATION OF PARTIES

Claimant Thalia Karakitsios IRA ("Karakitsios") hereinafter referred to as "Claimant":
Wm. Jemison Mims, Esq. and B. Kristian W. Rasmussen, Esq., Levin Papantonio,
Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, FL.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") hereinafter
referred to as "Respondent": Robert B. Baker, Esq. and James S. Rollins, Esq., Bingham
McCutchen, Boston, MA.

CASE INFORMATION

Statement of Claim filed on or about: May 19, 2003.

Amended Statement of Claim filed on or about: March 2, 2004.

Claimant signed the Uniform Submission Agreement: April 7, 2003.

Statement of Answer filed by Respondent on or about: August 8, 2003.

Respondent signed the Uniform Submission Agreement: June 11, 2003.

CASE SUMMARY

In the Statement of Claim and Amended Statement of Claim, Claimant asserted the following causes of action: breach of fiduciary duty; fraud; negligent misrepresentation; negligence; violation of Blue Sky Laws; and violations of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder; and breach of contract. Claimant's claim involved common stock.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensatory damages in the amount of \$51,644.54; punitive damages; interest; costs; attorneys' fees; and such other damages the Panel deems appropriate.

In the Amended Statement of Claim, Claimant requested compensatory damages in the amount of \$59,096.54; punitive damages; interest; costs; attorneys' fees; and such other damages the Panel deems appropriate.

Respondent requested that the relief requested be denied in all respects and that the costs of this proceeding be assessed against the Claimant.

OTHER ISSUES CONSIDERED AND DECIDED

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.

AWARD

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

1. Claimant's claims are denied in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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 | = \$225.00 |
|--------------------------|------------|

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. Accordingly, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,100.00 |
| Pre-hearing process fee | = \$ 750.00 |

Hearing process fee = \$1,700.00

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

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

Pre-hearing conferences: June 10, 2004 1 session
July 14, 2004 1 session

Two (2) Pre-hearing sessions with Panel @ \$750.00 = \$1,500.00

Pre-hearing conferences: January 7, 2004 1 session
February 3, 2004 1 session

Four (4) Hearing sessions @ \$750.00 = \$3,000.00

Hearing Dates: July 27, 2004 2 sessions
July 28, 2004 2 sessions

Total Forum Fees = \$5,400.00

1. The Panel has assessed \$2,700.00 of the forum fees against Claimant.
2. The Panel has assessed \$2,700.00 of the forum fees against Respondent.

Fee Summary

1. Claimant is solely liable for:

| | |
|-------------------------------------|---------------------|
| Initial Filing Fee | = \$ 225.00 |
| <u>Forum Fees</u> | = <u>\$2,700.00</u> |
| Total Fees | = \$2,925.00 |
| <u>Less payments</u> | = <u>\$1,750.00</u> |
| Balance Due NASD Dispute Resolution | = \$1,175.00 |

2. Respondent is solely liable for:

| | |
|-------------------------------------|---------------------|
| Member Fees | = \$3,550.00 |
| <u>Forum Fees</u> | = <u>\$2,700.00</u> |
| Total Fees | = \$6,250.00 |
| <u>Less payments</u> | = <u>\$3,550.00</u> |
| Balance Due NASD Dispute Resolution | = \$2,700.00 |

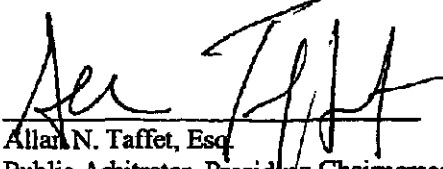
All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

| | | |
|-----------------------|---|--|
| Allan N. Taffet, Esq. | - | Public Arbitrator, Presiding Chairperson |
| Kay B. Clanton, Ph.D | - | Public Arbitrator |
| Catherine I. Gulevich | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument is which is my award.


Allan N. Taffet, Esq.
Public Arbitrator, Presiding Chairperson

8/9/04
Signature Date

Kay B. Clanton, Ph.D
Public Arbitrator

Signature Date

Catherine I. Gulevich
Non-Public Arbitrator

Signature Date

August 9, 2004
Date of Service (For NASD Dispute Resolution use only)

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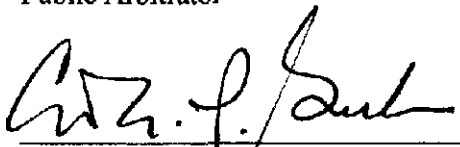
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Allan N. Taffet, Esq.
Public Arbitrator, Presiding Chairperson

Signature Date

Kay B. Clanton, Ph.D
Public Arbitrator

Signature Date



Catherine I. Gulevich
Non-Public Arbitrator

08/03/2004
Signature Date

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