

**STIPULATED AWARD
NASD Dispute Resolution**

In the Matter of the Arbitration Between

Name of Claimant

Dorothy Mae McMillan

and

Case Number: 03-03935
Hearing Site: Detroit, Michigan

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.,
and Betty J. Cinq-Mars

NATURE OF CASE

Customer v. Member and Associated Person

REPRESENTATION OF PARTIES

Dorothy Mae McMillan ("Claimant") appeared in pro per.

Merrill Lynch Pierce Fenner & Smith, Inc. ("MLPFS"), and Betty J. Cinq-Mars ("Cinq-Mars"), hereinafter referred to as "Respondents," were represented by Harry D. Frisch, Esq., Merrill Lynch Pierce Fenner & Smith, Inc., New York, New York.

CASE INFORMATION

The Statement of Claim was filed on or about May 30, 2003. The Submission Agreement of Claimant, Dorothy Mae McMillan, was signed on or about June 5, 2003.

The Statement of Answer was filed jointly by Respondents, MLPFS and Cinq-Mars, on or about July 25, 2003.

CASE SUMMARY

Claimant, in her Statement of Claim, alleged that Respondents made an unsuitable investment recommendation concerning AT&T Canada in her account.

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

RELIEF REQUESTED

Claimant requested an award in the amount of \$50,000.00, plus punitive damages of \$100,000.00, interest, costs, forum fees, and other unspecified relief.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded their costs, attorneys' fees, and such other relief as is just and proper. Respondent, Cinq-Mars, requested that all references to this matter be expunged from her CRD records.

OTHER ISSUES CONSIDERED & DECIDED

Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., and Betty J. Cinq-Mars, did not file with NASD Dispute Resolution properly executed submissions to arbitration but are 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 pre-hearing conferences through counsel are bound by the determination of the arbitration panel on all issues submitted.

Respondents and Claimant advised the panel that on October 12, 2004, they entered in to an agreement to settle this matter on certain terms and conditions set forth in a confidential settlement agreement.

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 parties' submissions and representations, but without making any findings of fact or conclusions of law, the undersigned arbitrators order as follows:

- 1.) Pursuant to the confidential settlement agreement reached between all parties, all claims against Respondents, Merrill Lynch and Cinq-Mars, are dismissed with prejudice;
- 2.) The panel recommends the expungement of all reference to the above captioned arbitration from Respondent Betty J. Cinq-Mars' registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notice to Members 99-09, Respondent Cinq-Mars must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
- 3.) Other than Forum Fees which are specified below, the parties shall each bear their own costs and expenses incurred in this matter; 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 = \$ 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 person 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

Adjournment Fees

~~Adjournment Fees~~

Adjournments requested during these proceedings:

October 19-20, 2004, adjournment requested jointly (fee waived) = \$ 1,125.00

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: May 11, 2004 1 session
August 17, 2004 1 session
One (1) Pre-hearing session with Panel x \$1,125.00 = \$ 1,125.00
Pre-hearing conference: April 12, 2004 1 session

Total Forum Fees = \$ 2,025.00

Pursuant to the parties' settlement agreement, the arbitration panel has assessed \$2,025.00 of the forum fees to Merrill Lynch Pierce Fenner & Smith, Inc.

FEE SUMMARY

Claimant, Dorothy Mae McMillan, is liable for:

Initial Filing Fee	= \$ 300.00
Total Fees	= \$ 300.00
Less payments	= \$ 1,425.00
Refund Due from NASD Dispute Resolution	= \$ 1,125.00

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

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 2,025.00
Total Fees	= \$ 7,225.00
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 2,025.00

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

ARBITRATION PANEL

A. Robert Stevenson, Esq. - Public, Presiding Chair
Jerome D. Sobczak - Public Arbitrator
Chris D. Kontos - Non-Public Arbitrator

Concurring Arbitrators:

/s/ A. Robert Stevenson, Esq.
A. Robert Stevenson, Esq.
Public Arbitrator, Presiding Chair

11/12/04
Signature Date

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

11/11/04
Signature Date

/s/ Chris D. Kontos
Chris D. Kontos
Non-Public Arbitrator

11/15/04
Signature Date

11/22/04
Date of Service (For NASD office use only)

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Jerome D. Sobczak - Public Arbitrator
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Concurring Arbitrators:

A. Robert Stevenson, Esq.
Public Arbitrator, Presiding Chair

Jerome D. Sobczak
Jerome D. Sobczak
Public Arbitrator

Signature Date

11-11-04
Signature Date

Chris D. Kontos
Non-Public Arbitrator

Signature Date

Date of Service (For NASD office use only)

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NASD REGULATION

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 Arbitration No. 03-08935
 Stipulated Award Page 4 of 4

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 A. Robert Stevenson, Esq.
 Public Arbitrator, Presiding Chair

11/12/04
 Signature Date

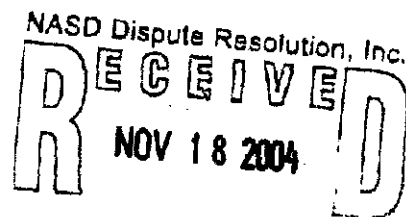
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Concurring Arbitrators:

A. Robert Stevenson, Esq.
Public Arbitrator, Presiding Chair


Signature Date

Jerome D. Sobczak
Public Arbitrator

Signature Date



Chris D. Kontos
Non-Public Arbitrator



Signature Date

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