
NASD DISPUTE RESOLUTION AWARD

NASD DISPUTE RESOLUTION

CASE: 03-04358

MLPF& S CUST FPO Mark E. Wenglikowski IRA FBO Mark E. Wenglikowski, Claimant v.
Merrill Lynch Pierce Fenner & Smith, Inc., Respondent.

ATTORNEYS:

For Claimant, MLPF& S CUST FPO Mark E. Wenglikowski IRA FBO Mark E. Wenglikowski, ("Claimant"), appeared Wm. Jemison Mims, Jr., Esq., of the firm Levin, Papantonio, Thomas, Mitchell, Echsner, & Proctor, P.A., Pensacola, FL.

For Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., ("Respondent"), appeared Julie L. Wilson, of the firm Maynard, Cooper & Gale, P.C., Birmingham, AL.

NATURE OF DISPUTE: Customer v. Member

DATE FILED: June 16, 2003

CASE SUMMARY: Claimant alleged that Respondent breached its fiduciary duty, negligently, intentionally, and/or recklessly misrepresented and/or omitted material facts that were necessary to make informed investment decisions in the Claimant's portfolio, violated Blue Sky Laws, and violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. Claimant maintained that due to Respondent's actions, his accounts suffered financial losses.

Claim Data

Claim: \$24,381.00
Punitive: Unspecified
Interest: Unspecified
Attorney Fees: Unspecified
Filing Fees: Unspecified
Other: Unspecified

Award Data

Award: \$.00
Punitive: \$.00
Interest: \$.00
Attorney Fees: \$.00
Filing Fees: \$212.50
Other: \$.00

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) The claims of the Claimant are dismissed in their entirety. 2) All requests for punitive damages are denied. 3) All requests for interest are denied. 4) All requests for attorney fees are denied. 5) All other relief requests are denied. 6) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 7) Respondent is liable and shall pay to the Claimant \$212.50 as reimbursement of one-half of the filing fee.


OTHER FEES: Pursuant to Rule 10333 of the Code, Respondent has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

ARBITRATOR

Sandra J. Budnick, Esq. - Sole Public Arbitrator

AFFIRMATION

I, Sandra J. Budnick, Esq., do hereby affirm, upon my oath as arbitrator that I am the individual described herein who executed this instrument, which is my oath and award.


Sandra J. Budnick, Esq.

7-6-04
Signature Date

July 8, 2004
Date of Service (For NASD-DR office use only)