

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION
CASE: 03-05970

Jacob B. Bushwell, Claimant v. Merrill Lynch Pierce Fenner & Smith, Inc., Respondent.

ATTORNEYS:

For Claimant, Jacob B. Bushwell, ("Claimant"), appeared Wm. Jemison Mims, Jr., of the firm Levin, Papantonio, Thomas, Mitchell, Echsner, & Proctor, P.A., Pensacola, FL.

For Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., ("Respondent"), appeared Luther M. Dorr, Jr., Esq., of the firm Maynard, Cooper & Gale, P.C., Birmingham, AL.

NATURE OF DISPUTE: Customer v. Member

DATE FILED: August 18, 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 his portfolio, and violated Blue Sky Laws. Claimant's claim involved Cisco Systems, Inc., Ebay, Inc., Tyco Intl. Ltd. New, AOL Time Warner, Inc., EMC Corporation Mass, Enron Corp Oregon NPV, and Exodus Communications stock. Claimant maintained that due to Respondent's actions his Consults and CMA accounts suffered financial losses.

Claim Data

Claim: \$16,043.25

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: \$.00

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 desposited previously.

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

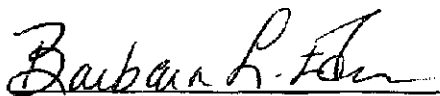
OTHER ISSUES: All motions were denied.


ARBITRATOR

Barbara L. Edin, Esq. - Sole Public Arbitrator

AFFIRMATION

I, Barbara L. Edin, 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.


Barbara L. Edin, Esq.


Signature Date

July 26, 2004
Date of Service (For NASD-DR office use only)