

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 04-00453

Martha J. Grover, Claimant v. Merrill Lynch Pierce Fenner & Smith, Respondents

ATTORNEYS:

For Claimant, Martha J. Grover, ("Claimant"), appeared Wm. Jemison Mims, Jr. Esq., of the firm Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, Pensacola, FL.

For Respondent, Merrill Lynch Pierce Fenner & Smith, ("Respondent"), appeared Kathryn R. Eldridge, Esq. of the firm Maynard, Cooper, & Gale, P.C. Birmingham, AL.

NATURE OF DISPUTE: Customer vs. Member.

DATE FILED: January 23, 2004.

CASE SUMMARY: Claimant alleged that Respondent breached its fiduciary duty to generate analyst reports that accurately reflect its true opinions, disclose all inherent conflicts of interest, and provide accurate financial advice. Claimant further alleged that Respondent intentionally and/or recklessly misrepresented and/or omitted material facts that were necessary to make informed investment decisions in the Claimant's portfolio. Additionally, Claimant alleged that Respondent participated in and/or aided in the publication of untrue statements of material fact or omission of material facts to the Claimant. Claimant also alleged that Respondent was in breach of its contract to engage in fair dealing with its clients. Claimant maintained that as a result of Respondent's actions, her account suffered financial losses.

ARBITRATOR SUMMARY: (See Exhibit A)

Claim Data

Claim: \$23,944.35

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 Arbitrator granted Respondent's motion to dismiss, therefore all claims of Claimant are dismissed in their entirety. 2) All requests for attorney fees are denied. 3) All requests for punitive damages are denied. 4) All requests for interest 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.

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

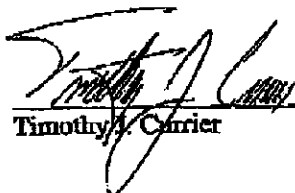
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ARBITRATOR

Timothy J. Currier - Sole Public Arbitrator

AFFIRMATION

I, Timothy J. Currier, 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.



Timothy J. Currier

9/30/04
Signature Date

October 29, 2004
Date of Service (For NASD-DR office use only)

Exhibit A

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

ARBITRATION DEPARTMENT

MARTHA J. GROVER,

Claimant,

NASD Arbitration No.: 04-00453

v

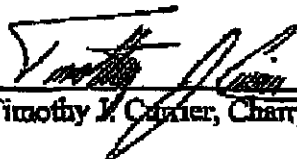
MERRILL LYNCH, PERICE, FENNER
& SMITH, INC.

Respondent

ORDER

This matter comes before the arbitrator upon the Respondent's Motion to Dismiss and Motion to Strike. The arbitrator has read the Claimant's Statement of Claim and reviewed the 136 Exhibits attached thereto. In addition, the arbitrator has also reviewed the Respondent's Answer and the 7 Exhibits attached thereto, as well as Respondent's hearing submission, Respondent's Motion for an Evidentiary Final Hearing, Claimant's Motion to Strike, Respondent's Request for Production and Respondent's Response to Claimant's Motion to Strike Discovery and Respondent's Motion to Compel Production of Documents and Information. The arbitrator has also reviewed the Affidavit of Martha J. Grover and the Affidavit of Mary Beth Norris. Finally, the arbitrators made specific inquiries of the NASD Dispute Resolution staff as to whether Claimant ever filed a response to the Respondent's Motion to Dismiss and Motion to Strike. The arbitrator has been informed that no such response has been made.

IT IS HEREBY ORDERED that Respondent's Motion to Dismiss is hereby granted.


Timothy J. Carter, Chairperson