

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION
CASE: 04-00771

Arlene P. and David Jimenez JNT, Claimants v. Merrill Lynch Pierce Fenner & Smith, Inc., Respondent.

ATTORNEYS:

For Claimants, Arlene P. and David Jimenez JNT, ("Claimants"), appeared Jeffrey B. Kaplan, of the firm Dimond Kaplan & Rothstein, P.A., Miami, FL.

For Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., ("Respondent"), appeared A. Inge Selden, III, Esq., of the firm Maynard Cooper & Gale, P.C., Birmingham, AL.

NATURE OF DISPUTE: Customers v. Member

DATE FILED: February 6, 2004

CASE SUMMARY: Claimants alleged that Respondent breached its fiduciary duty, was negligent, committed common law fraud, fraudulent misrepresentation, and fraudulent inducement. Claimants' claim involved Focus 20 Fund stock. Claimants maintained that due to Respondent's actions, their joint account suffered financial losses.

Claim Data

Claim: \$24,084.37, plus rescission of the sale of the Focus 20 Fund to Claimants as well as restitution and/or disgorgement of monies earned by Respondent from such transactions.

Interest: Pre-judgment interest

Attorney Fees: Unspecified

Filing Fees: Unspecified

Other: Unspecified

Award Data

Award: \$.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 Claimants are dismissed in their entirety. 2) All requests for interest are denied. 3) All requests for attorney fees are denied. 4) All other relief requests are denied. 5) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimants deposited previously.

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

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ARBITRATOR

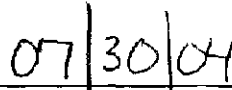
Ari Lynn Turner - Sole Public Arbitrator

AFFIRMATION

I, Ari Lynn Turner, 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.



Ari Lynn Turner



Signature Date

August 20, 2004

Date of Service (For NASD-DR office use only)