

NASD DISPUTE RESOLUTION AWARD

NASD DISPUTE RESOLUTION

CASE: 04-00890

Harriet Hanson, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc. , Respondent.

ATTORNEYS:

For Claimant, Harriet Hanson, ("Claimant"), appeared Jeffrey B. Kaplan, Esq., of the firm Dimond, Kaplan & Rothstein, P.A., Miami, FL., and Charles W. Austin, Jr., Esq., of the firm C.W. Austin, Jr. PC, Richmond, VA.

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: Customer v. Member

DATE FILED: February 6, 2004

CASE SUMMARY: Claimant alleged that Respondent made misrepresentations associated with the recommendation and sale of it's Focus 20 Fund. Claimant further alleged that these violations occurred as a result of recommendations, actions, and omissions by Respondent including, breach of fiduciary duty, common law fraud, fraudulent misrepresentation, fraudulent inducement, negligence, negligent misrepresentation, and gross negligence. Claimant maintained that as a result of Respondent's actions, her account suffered financial losses.

Claim Data

Claim: \$24,240.30

Claim: Rescission/Restitution and/or Disgorgement

Interest: @ statutory rate

Filing Fees: Unspecified

Other: Unspecified

Award Data

Award: \$.00

Award: \$.00

Interest: \$.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 Claimant are dismissed in their entirety. 2) All requests for rescission/restitution and/or disgorgement damages are denied. 3) All requests for interest are denied. 4) All other relief requests are denied. 5) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 6) Respondent is liable and shall pay to the Claimant \$212.50 as reimbursement of one-half of the filing fees.

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

ARBITRATOR

Larry A. Feldman - Sole Public Arbitrator

AFFIRMATION

I, Larry A. Feldman, 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.



Larry A. Feldman

9-24-04

Signature Date

September 30, 2004

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