

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 04-01251

Marjorie Brantmeyer IRA and Thomas Brantmeyer IRA, Claimants v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent

ATTORNEYS:

For Claimants Marjorie Brantmeyer IRA and Thomas Brantmeyer IRA (collectively "Claimants") appeared Andrew Stoltman, Esq., of the firm Maddox Hargett & Caruso, P.C., Chicago, IL. Previously represented by: Peter J. Fox, Esq., of the firm Law Office of Daniel J. Mei, S.C., Brookfield, WI.

For Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Respondent") appeared James K. Langdon, II, Esq., of the firm Dorsey & Whitney, LLP, Minneapolis, MN.

NATURE OF DISPUTE: Customers vs. Member.

DATE FILED: February 19, 2004.

CASE SUMMARY: Claimants alleged that Respondent made unauthorized purchases and placed them in securities that were unsuitable for their investment objectives, despite their explicit instructions. Claimants further alleged that Respondent failed to disclose material facts concerning investments, that Respondent breached its fiduciary duty, breached its contract, and failed to supervise its broker. Claimants maintained that due to Respondent's actions, Claimants suffered losses. Claimants' claim involved shares of Bergen Capital Trust.

Claim Data

Claim: \$10,500.00
Punitive: \$1,000.00
Interest: \$1,260.00
Attorney Fees: One-third
Filing Fees: \$425.00
Other: \$300.00

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 Claimants 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 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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Kelly Ann Paxton

Sole Public Arbitrator

AFFIRMATION

I, Kelly Ann Paxton, 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.



Kelly Ann Paxton

1/7/05

Signature Date

January 20, 2005

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