

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 04-01259

Anthony K. Lagondino, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Frederick C. Wong, Respondents

ATTORNEYS:

For Claimant Anthony K. Lagondino ("Claimant") appeared Gerald S. Clay, Esq., of the firm Stanton Clay Chapman Crumpton & Iwamura, Honolulu, HI.

For Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Frederick C. Wong (collectively "Respondents") appeared Theodore D.C. Young, Esq., Cades Schutte, LLLP, Honolulu, HI.

NATURE OF DISPUTE: Customer v. Member and Associated Person.

DATE FILED: February 26, 2004.

CASE SUMMARY: Claimant alleged that Respondents placed him in investments that were unsuitable to his needs and investment objectives. Claimant further alleged that Respondents failed to disclose pertinent information regarding the investments. Claimant additionally alleged breach of fiduciary duty, breach of contract, breach of duty, negligence, fraud and misrepresentation, respondeat superior/failure to supervise, suitability, rescission, and unfair and deceptive trade practices. Claimant maintained that due to Respondents' actions, the account suffered losses. Claimants' claim involved Biotechnology 2000 Series A Defined Asset Funds (UIT), Broadband Port 2000 Series B Defined Asset Funds (UIT), Internet Port 2000 Series A Defined Asset Funds (UIT), Novellus Systems, Inc., Motorola, Inc., Tellabs, Inc., and Intel.

Claim Data

Claim: \$25,000.00
Filing Fees: Unspecified
Other: Unspecified

Award Data

Award: \$25,000.00
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) Respondents are jointly and severally liable and shall pay to the Claimant \$25,000.00. 2) All other relief requests are denied. 3) 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, Inc. has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

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Award 04-01259

Robert F. Oberstein

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Sole Public Arbitrator

AFFIRMATION

I, Robert F. Oberstein, 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.


Robert F. Oberstein


Signature Date

December 1, 2004
Date of Service (For NASD-DR office use only)