

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Theresa Robertson, Claimant v. Merrill Lynch, Pierce, Fenner & Smith Incorporated,
Respondent

Case Number: 04-02239

Hearing Site: Seattle, Washington

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

David Gaba, Esq.
Compass Law Group PLLC
Seattle, Washington

For Respondent:

Erik Lansverk, Esq.
Hillis Clark Martin &
Peterson
Seattle, Washington

CASE INFORMATION

Statement of Claim filed: March 30, 2004

Claimant's Uniform Submission Agreement signed: March 24, 2004

Statement of Answer filed by Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated:
June 9, 2004

Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated's Uniform Submission
Agreement signed: April 20, 2004

CASE SUMMARY

Claimant alleged unsuitability, misstatements and omissions of material facts, failure to supervise, breach of contract, breach of fiduciary duty, violation of Washington State Securities Act, violation of Washington Consumer Protection Act, negligence, unjust enrichment, and vicarious liability. Claimant's allegations involved securities such as WebMD, Purchasepro.com, Infospace, B2B Internet Holders Group, and Telecom Holders Trust Deposit Receipts.

Respondent denied the allegations of wrongdoing set forth in Claimant's Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimant requested \$499,000.00 in compensatory damages and rescissionary damages for Claimant's losses in her portfolio, margin interest, fees, and charges, unspecified punitive damages, pre- and post-judgment interest at a rate of 12%, reimbursement of filing fees, assessment of forum fees against Respondent, compensation to Claimant for any additional income taxes that she may owe on any Award, and costs, including attorney's fees.

Respondent requested dismissal of Claimant's Statement of Claim in its entirety, and costs, including attorney's fees.

OTHER ISSUES CONSIDERED AND DECIDED

The parties agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, testimony, and evidence presented at the hearing, and the post-hearing submissions, the Panel decided in full and final resolution of the issues submitted for determination as follows:

- 1) Claimant's claims are denied in their entirety.
- 2) The parties shall bear their respective costs, including attorney's fees.
- 3) All other relief requested and not expressly granted is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution received or will collect the non-refundable filing fees for each claim as follows:

Initial claim filing fee	= \$ waived
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Member Fees

Member fees are assessed to each member firm that is either a party in the matter or an employer of a respondent associated person at the time of the events that gave rise to the dispute, claim, or controversy. Accordingly, the member firm Merrill Lynch, Pierce, Fenner & Smith Incorporated is a party, and the following fees are assessed:

Member Surcharge	= \$1,700.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$2,750.00
Total Member Fees	= \$5,200.00

Forum Fees and Assessments

The Panel assessed a forum fee for each pre-hearing conference or hearing session conducted. A pre-hearing conference and hearing session is any meeting between the parties and the Chair or the parties and the Panel. The following fees are assessed:

Two (2) pre-hearing conference sessions with the Panel @ \$1,125.00/session	= \$ 2,250.00
Pre-hearing conferences:	
July 27, 2004	1 session
October 15, 2004	1 session
Six (6) hearing sessions @ \$1,125.00/session	= \$ 6,750.00
Hearings:	
February 2, 2005	2 sessions
February 3, 2005	2 sessions
February 4, 2005	2 sessions
	= \$ 9,000.00

1. The Panel assessed \$4,500.00 of the forum fees to Claimant Theresa Robertson.
2. The Panel assessed \$4,500.00 of the forum fees to Respondent Merrill Lynch, Pierce, Fenner & Smith, Incorporated.

Fee Summary

1. Claimant Theresa Robertson is charged with the following fees and costs:

Forum Fees	= \$ 4,500.00
Less payments	= \$ (0.00)
Balance Due NASD Dispute Resolution	= \$ 4,500.00
2. Respondent Merrill Lynch, Pierce, Fenner & Smith Incorporated is charged with the following fees and costs:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 4,500.00
Total Fees	= \$ 9,700.00
Less payments	= \$(5,200.00)
Balance Due NASD Dispute Resolution	= \$ 4,500.00

All balances are payable to NASD Dispute Resolution and are due upon the receipt of the Award pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Keith A. Callow, Esq.	-	Public Arbitrator, Presiding Chair
Linda A. Cotton	-	Public Arbitrator
Robert McCullough	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures



Keith A. Callow
Chair, Public Arbitrator



Signature Date

Linda A. Cotton
Public Arbitrator

Signature Date

Robert McCullough
Non-Public Arbitrator

Signature Date



Date of Service

NASD Dispute Resolution

Arbitration No. 04-02239

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ARBITRATION PANEL

Keith A. Callow, Esq.

Linda A. Cotton

Robert McCullough

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Public Arbitrator, Presiding Chair

Public Arbitrator

Non-Public Arbitrator

Concurring Arbitrators' Signatures

Keith A. Callow
Chair, Public Arbitrator

Signature Date

Linda A. Cotton
Public Arbitrator

Signature Date


Robert McCullough
Non-Public Arbitrator

2/9/05
Signature Date

2/6/05
Date of Service

ARBITRATION PANEL

<i>Keith A. Callow, Esq.</i>	-	<i>Public Arbitrator, Presiding Chair</i>
<i>Linda A. Cotton</i>	-	<i>Public Arbitrator</i>
<i>Robert McCullough</i>	-	<i>Non-Public Arbitrator</i>

Concurring Arbitrators' Signatures

Keith A. Callow
Chair, Public Arbitrator

Signature Date

Linda A. Cotton

Linda A. Cotton
Public Arbitrator

Feb. 16th 2005

Signature Date

Robert McCullough
Non-Public Arbitrator

Signature Date

Date of Service