

NASD DISPUTE RESOLUTION AWARD

NASD DISPUTE RESOLUTION

CASE: 04-02256

Lannie D. Mitchell, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent.

ATTORNEYS:

For Claimant, Lannie D. Mitchell, ("Claimant"), appeared Wm. Jemison Mims, Jr., Esq., of the firm Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, FL.

For Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc, ("Respondent"), appeared Bill Powell Guest, Esq., of the firm Day, Edwards, Propester & Christensen, P.C., Oklahoma City, OK.

NATURE OF DISPUTE: Customer v. Member

DATE FILED: April 1, 2004

CASE SUMMARY: Claimant alleged that Respondent breached its fiduciary duty, negligently, intentionally and/or recklessly misrepresented and/or omitted material facts that are necessary to make informed investment decisions in the Claimant's portfolio, and violated Blue Sky Laws. Claimant's claim involved, Exodus Communications, Inc., Internet Cap Group, Inc., America Online, Inc., B2B Internet Hldr Tr DEP, JDS Uniphase Corp., Cisco Systems, Inc., EMC Corporation Mass and Enron Corp Oregon NPV stocks.

ARBITRATOR'S REPORT: Deny respondent's request for oral argument.

Claim Data

Claim: \$19,571.65

Punitive: Unspecified

Interest: Unspecified

Attorney Fees: Unspecified

Costs: Unspecified

Other: Unspecified

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 the Claimant are dismissed in their entirety. 2) All requests for punitive damages are denied. 3) All requests for interest are denied. 4) All requests for attorney fees are denied. 5) All requests for costs are denied. 6) All other relief requests are denied. 7) 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 has paid to NASD Dispute Resolution the \$425.00 Member Surcharge previously invoiced.

OTHER ISSUES: The arbitrator denied Respondent's request for a hearing.

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ARBITRATOR

Danne L. Johnson - Sole Public Arbitrator

AFFIRMATION

I, Danne L. Johnson, 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.


Danne L. Johnson

10/10/04
(Signature Date)

October 14, 2004
Date of Service (For NASD-DR office use only)