

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 04-02590

William Zumwalt, Claimant v. Merrill Lynch, Pierce, Fenner & Smith, Inc., Respondent

ATTORNEYS:

For Claimant William Zumwalt ("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 Alan F. Enslin, Esq., of the firm Maynard, Cooper & Gale, P.C., Birmingham, AL.

NATURE OF DISPUTE: Customer vs. Member.

DATE FILED: April 5, 2004.

CASE SUMMARY: Claimant's claim arises out of Respondent's failure to properly allocate the Claimant's portfolio and the recommendation of unsuitable purchases as well as Respondent's fraudulent analyst reports, which recommended the purchase of, and set target prices for the common stock of companies without any reasonable factual basis. Claimant alleged breach of fiduciary duty, fraud, negligent misrepresentation, negligence, violation of Blue Sky Laws, and breach of contract. Claimant's claim involved common stock.

Claim Data

Claim: \$25,000.00
Punitive: Unspecified
Interest: Unspecified
Attorney Fees: Unspecified
Filing Fees: Unspecified
Other: Unspecified

Award Data

Award: \$.00
Punitive: \$.00
Interest: \$.00
Attorney Fees: \$.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 punitive damages are denied. 3) All requests for interest are denied. 4) All request for attorney fees are denied. 5) All other relief requests are denied. 6) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 6) Respondent is liable and shall pay Claimant \$212.50 as reimbursement of one-half of the filing fee.

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: All outstanding motions were considered by the Arbitrator and denied.

ARBITRATOR

Daniel J. Danvir - Sole Public Arbitrator

AFFIRMATION

I, Daniel J. Danvir, 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.

Daniel J. Danvir
Daniel J. Danvir

Jan. 5, 2005
Signature Date

January 18, 2005
Date of Service (For NASD-DR office use only)