

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Doris Rudolph, Claimant v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, Respondent

Case Number: 04-02697

Hearing Site: Salt Lake City, Utah

Nature of the Dispute: Customer v. Member

REPRESENTATION OF PARTIES

For Claimant:

Jeff Musslewhite, Esq.
Woska & Hayes, L.L.P.
Kingwood, Texas

For Respondent:

Stephen Lau, Esq.
Mennemeier, Glassman & Stroud
Sacramento, California

CASE INFORMATION

Statement of Claim filed: April 6, 2004

First Amended Statement of Claim filed: March 29, 2005

Claimant's Uniform Submission Agreement signed: March 29, 2004

Statement of Answer filed by Respondent: June 17, 2004

Respondent's Response to First Amended Statement of Claim filed: April 8, 2005

Respondent's Uniform Submission Agreement signed: May 24, 2004

CASE SUMMARY

In her initial Statement of Claim, Claimant alleged controlling person liability pursuant to section 20(A) of the Exchange Act 15 USC §78(a) and the applicable State Act, failure to diversify, breach of fiduciary duty, beach of contract, violation of the Know Your Customer Rule, unsuitability, failure to supervise, violation of NASD Rules of Fair Practice Article III, violation

of the Idaho Securities Act, violation of Idaho Code 30-1403 and Idaho Code 48-603, intentional and negligent misrepresentation and failure to hedge.

In her Amended Statement of Claim, Claimant alleged breach of fiduciary duty, unsuitability, failure to supervise, violations of the securities laws, violation of NASD Rules of Fair Practice Article III, violation of the Idaho Securities Act, violation of Idaho Code 30-1403 and Idaho Code 48-603, intentional and negligent misrepresentation and failure to hedge.

Claimant's allegations involved investment in the following defined asset funds: Baby Boom Growth 2000 B, Biotechnology 2000 Series C, Core Holdings 2000 Series B, Institutional HLD 2000 D, Internet Port 2000 Series E, Technology 2000 Series E, and Teleglobal Trust 2000 Series B.

Respondent denied the allegations of wrongdoing set forth in the Claimant's Statement of Claim and set forth the following affirmative defenses: assumption of the risk, comparative negligence, failure to mitigate, statute of limitations.

RELIEF REQUESTED

Claimant requested compensatory damages in the sum of \$47,000.00, unspecified punitive damages, pre- and post-judgment interest, and costs, including attorney's fees.

Respondent requested dismissal of the 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, 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 = \$ 175.00

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	= \$ 875.00
Pre-Hearing Process Fee	= \$ 750.00
Hearing Process Fee	= \$1,000.00
Total Member Fees	= \$2,625.00

Adjournment Fees

The following adjournment fees are assessed:

March 14-17, 2005, adjournment requested by the Parties = \$ 450.00

The Arbitrator assessed \$225.00 of the adjournment fees to Claimant.

The Arbitrator assessed \$225.00 of the adjournment fees to Respondent.

Three Day Cancellation Fees

Three Day Cancellation Fees apply when a hearing on the merits is postponed or cancelled within three business days before the start of a scheduled hearing session:

March 14-17, 2005 adjournment requested by the Parties = \$100.00

The Arbitrator assessed \$50.00 last minute adjournment fee to Claimant

The Arbitrator assessed \$50.00 last minute adjournment fee to Respondent

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:

(7) Pre-hearing conference sessions with a single arbitrator @ \$ 450.00/session = \$ 3,150.00

Pre-hearing conferences:	August 25, 2004	1 session
	September 17, 2004	1 session
	January 24, 2005	1 session
	March 2, 2005	1 session
	March 4, 2005	1 session
	March 11, 2005	1 session
	March 25, 2005	1 session

(5) Hearing sessions @ \$450.00/session = \$ 2,250.00

Hearings:	November 15, 2005	2 sessions
	November 16, 2005	3 sessions

Total Forum Fees = \$ 5,400.00

1. The Arbitrator assessed \$2,700.00 of the forum fees to Claimant.
2. The Arbitrator assessed \$2,700.00 of the forum fees to Respondent.

Fee Summary

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

Initial Filing Fee	= \$ 175.00
Adjournment Fee	= \$ 225.00
Three-Day Cancellation Fee	= \$ 50.00
Forum Fees	= \$ 2,700.00
Total Fees	= \$ 3,150.00
Less payments	= \$(1,175.00)
Balance Due NASD Dispute Resolution	= \$ 1,975.00

2. Respondent is charged with the following fees and costs:

Member Fees	= \$2,625.00
Adjournment Fee	= \$ 225.00
Last Minute Adjournment Fee	= \$ 50.00
Forum Fees	= \$ 2,700.00
Total Fees	= \$ 5,600.00
Less payments	= \$(2,900.00)
Balance Due NASD Dispute Resolution	= \$ 2,700.00

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

Kevin D. Swenson, J.D

Public Arbitrator, Presiding Chair

Arbitrator's Signature



Kevin D. Swenson, J.D
Chair, Public Arbitrator

11-30-05

Signature Date

11/30/05

Date of Service