

Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Carolyn S. Russell and Lindsay C. Russell JTWROS, Carolyn Russell SEP, and Carolyn S. Russell IRRA (Claimants) v. Merrill Lynch, Pierce, Fenner & Smith, Inc. and Sally Ann Weger (Respondents)

Case Number: 04-06872

Hearing Site: New York, New York

Nature of the Dispute: Customers vs. Member and Associated Person.

REPRESENTATION OF PARTIES

Claimants Carolyn S. Russell and Lindsay C. Russell JTWROS ("C. Russell and L. Russell"), Carolyn Russell SEP ("C. Russell SEP"), and Carolyn S. Russell IRRA ("C. Russell IRRA") hereinafter collectively referred to as "Claimants" appeared *pro se* through Carolyn S. Russell, Highlands, NJ.

Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Sally Ann Weger ("Weger") hereinafter collectively referred to as "Respondents": Keith Guilfoyle, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, NY.

CASE INFORMATION

Statement of Claim filed on or about: September 24, 2004.

Claimants signed the Uniform Submission Agreement: September 24, 2004.

Joint Statement of Answer filed by Respondents on or about: November 19, 2004.

Respondent Merrill Lynch signed the Uniform Submission Agreement: November 19, 2004.

Respondent Weger signed the Uniform Submission Agreement: November 18, 2004.

CASE SUMMARY

Claimants asserted the following causes of action: suitability; negligence; failure to supervise; and breach of fiduciary duty. The causes of action relate to mutual funds, including AIM Global Science and Technology Fund, Aim Global Growth Fund, and Alliance Bernstein Fund.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$18,843.00; costs in the amount of \$575.00; attorneys' fees; and other case-related costs.

Respondents requested that the Panel dismiss the Statement of Claim, in its entirety; costs and expenses; and such other relief as the Panel deems appropriate.

AWARD

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

1. Claimants' claims are denied in their entirety.
2. Any and all relief not specifically addressed herein is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$125.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated person at the time of the events giving rise to the dispute. Accordingly, Merrill Lynch, Pierce, Fenner & Smith, Inc. is a party.
Member surcharge = \$425.00

Forum Fees and Assessments

The Arbitrator has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$450.00 = \$ 450.00
Pre-hearing conference: January 25, 2005 1 session

Two (2) Hearing sessions @ \$450.00 = \$ 900.00
Hearing Date: March 22, 2005 2 sessions

Total Forum Fees = \$1,350.00

1. The Arbitrator has assessed \$675.00 of the forum fees jointly and severally against Claimants.

2. The Arbitrator has assessed \$675.00 of the forum fees jointly and severally against Respondents.

Fee Summary

1. Claimants are jointly and severally liable for:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 675.00
Total Fees	= \$ 800.00
<u>Less payments</u>	= \$ 575.00
Balance Due NASD Dispute Resolution	= \$ 225.00

2. Respondent Merrill Lynch is solely liable for:

Member Fees	= \$ 425.00
Total Fees	= \$ 425.00
<u>Less payments</u>	= \$ 425.00
Balance Due NASD Dispute Resolution	= \$ 0.00

3. Respondents are jointly and severally liable for:

Forum Fees	= \$ 675.00
Total Fees	= \$ 675.00
<u>Less payments</u>	= \$ 0.00
Balance Due NASD Dispute Resolution	= \$ 675.00

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

NASD REGULATION

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ARBITRATOR

Charles A. Crocco, Esq.

- Sole Public Arbitrator

Arbitrator's Signature

I, the undersigned arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


Charles A. Crocco, Esq.
Sole Public Arbitrator

April 15, 2005
Signature Date

April 11, 2005
Date of Service (For NASD Dispute Resolution use only)