

NASD DISPUTE RESOLUTION AWARD
NASD DISPUTE RESOLUTION

CASE: 05-00714

Jack and Modelle West, (Claimants) vs. Merrill Lynch, Pierce, Fenner & Smith, Inc.,
(Respondent)

ATTORNEYS:

For Claimants appeared Debra Brewer Hayes, of the firm Woska & Hayes, LLP, Kingwood, TX.

For Respondent appeared in-house counsel David E. Bamberger, Esq., New York, NY.

NATURE OF DISPUTE: Customers v. Member

DATE FILED: February 3, 2005

CASE SUMMARY: Claimants alleged that Respondent breached its fiduciary duty, violated the Know Your Customer Rule and placed them in unsuitable investments. Claimants further alleged breach of contract, failure to supervise, failure to diversify and over concentration. Claimants maintained that due to Respondent's actions, they suffered financial losses. Claimants' claim involved various Mutual Funds and Common Stock.

Claim Data

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

Award Data

Award: \$24,271.00
Punitive: \$.00
Attorney Fees: \$.00
Filing Fees: \$425.00
Other: \$281.75

AWARD: The undersigned arbitrator has decided and determined in full and final resolution of the issues submitted for determination as follows: 1) Respondent is liable and shall pay to the Claimants \$24,271.00. 2) All requests for attorney fees are denied. 3) All requests for punitive damages are denied. 4) Respondent is liable and shall pay Claimant \$281.75 for other fees incurred for bringing this action. 5) NASD Dispute Resolution shall retain the \$425.00 filing fee that the Claimant deposited previously. 6) Respondent is liable and shall pay Claimant \$425.00 as reimbursement 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.

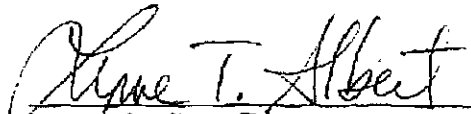
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Award 05-00714

Lynne T. Albert, Esq.

Sole Public Arbitrator

AFFIRMATION

I, Lynne T. Albert, Esq., 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.


Lynne T. Albert, Esq.

7/15/05
(Signature Date)

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