

AWARD
NASD Dispute Resolution

In the Matter of the Arbitration Between

Name of Claimant

Laverne Gore

and

Case Number: 05-00820
Hearing Site: Houston, Texas

Name of Respondent

Merrill Lynch Pierce Fenner & Smith, Inc.

NATURE OF DISPUTE

Customer v. Member Firm

REPRESENTATION OF PARTIES

Laverne Gore ("**Claimant**") was represented by Celeste M. Chiaramonte, Esq. and Juan Harold, Esq., Woska & Hayes, LLP, Kingwood, Texas.

Merrill Lynch Pierce Fenner & Smith, Inc. ("**Respondent**" or "**Merrill Lynch**") was represented by Joseph L. Hood, Esq., Scott, Hulse, Marshall, Feuille, Finger & Thurmond, PC, El Paso, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about February 14, 2005. The Submission Agreement of Claimant, Laverne Gore, was signed on or about February 9, 2005.

Statement of Answer was filed by Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., on or about April 8, 2005. The Submission Agreement of Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., was signed on or about March 1, 2005.

CASE SUMMARY

Claimant asserted the following causes of action: breach of contract, breach of fiduciary duty, failure to supervise and suitability. The causes of action related to the recommendation and purchase of various unspecified securities. Claimant alleged that Respondent strongly recommended a managed money account, but did not disclose all of the associated risks and that this type of account netted Respondent higher yearly

commissions on Claimant's account than on their non-discretionary accounts. Also, Claimant alleged that Respondent places her in large concentrations of risky individual stocks that went against her investment objective.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted affirmative defenses including the following: the Statement of Claim failed to state a claim upon which relief can be granted; the losses sustained by Claimant were due to external market forces and not by any representation, recommendation or negligent act or omission on the part of Respondent; Claimant ratified all transactions; and Claimant's claims are barred by the applicable statutes of limitation.

RELIEF REQUESTED

Claimant requested an award in the amount of:

Actual/Compensatory Damages	\$250,000.00
Punitive/Exemplary Damages	Unspecified
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified
Other Monetary Relief	Unspecified

Respondent requested that the claims asserted against it be denied in their entirety and that it be awarded its costs and attorneys' fees.

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered. In either case, the parties have agreed to receive conformed copies of the award while the original(s) remain on file with NASD Dispute Resolution ("NASD").

AWARD

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

- 1.) Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for and shall pay to Claimant, Laverne Gore, the sum of \$85,000.00 in compensatory damages;
- 2.) Other than Forum Fees which are specified below, the parties shall each

bear their own costs and expenses incurred in this matter; and

- 3.) Any relief not specifically enumerated, including punitive damages and attorneys' fees, is hereby denied with prejudice.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain the non-refundable filing fee for each claim:

Initial claim filing fee = \$ 300.00

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. In this matter, the member firm is Merrill Lynch Pierce Fenner & Smith, Inc.

Member surcharge = \$ 1,700.00

Pre-hearing process fee = \$ 750.00

Hearing process fee = \$ 2,750.00

Forum Fees and Assessments

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

Three (3) Pre-hearing sessions with Panel x \$1,125.00 = \$ 3,375.00

Pre-hearing conferences:	June 10, 2005	1 session
	June 22, 2005	1 session
	February 14, 2006	1 session

Six (6) Hearing sessions x \$1,125.00 = \$ 6,750.00

Hearing Dates:	March 7, 2006	2 sessions
	March 8, 2006	2 sessions
	March 9, 2006	2 sessions

Total Forum Fees = \$ 10,125.00

The Arbitration Panel has assessed \$5,062.50 of the forum fees to Laverne Gore.

The Arbitration Panel has assessed \$5,062.50 of the forum fees to Merrill Lynch Pierce Fenner & Smith, Inc.

Fee Summary

Claimant, Laverne Gore, is liable for:

Initial Filing Fee	= \$ 300.00
Forum Fees	= \$ 5,062.50
Total Fees	= \$ 5,362.50
Less payments	= \$ 1,425.00
Balance Due NASD Dispute Resolution	= \$ 3,937.50

Respondent, Merrill Lynch Pierce Fenner & Smith, Inc., is liable for:

Member Fees	= \$ 5,200.00
Forum Fees	= \$ 5,062.50
Total Fees	= \$10,262.50
Less payments	= \$ 5,200.00
Balance Due NASD Dispute Resolution	= \$ 5,062.00

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

ARBITRATION PANEL

William Edward Buck, JD - Public Arbitrator, Presiding Chair
James A. Parker - Public Arbitrator
Thomas H. Crooks - Non-Public Arbitrator

Concurring Arbitrators:

/s/ William Edward Buck, JD
William Edward Buck, JD
Public Arbitrator, Presiding Chair

March 14, 2006
Signature Date

/s/ James A. Parker
James A. Parker
Public Arbitrator

March 14, 2006
Signature Date

/s/ Thomas H. Crooks
Thomas H. Crooks
Non-Public Arbitrator

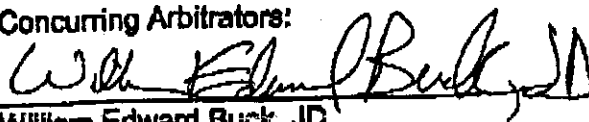
March 15, 2006
Signature Date

March 14, 2006
Date of Service (For NASD office use only)

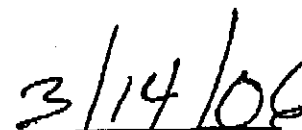
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Public Arbitrator

Signature Date



Thomas H. Crooks
Non-Public Arbitrator

3/15/06

Signature Date

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