

**Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Christine A. Triplett (Claimant) vs. Merrill Lynch, Pierce, Fenner & Smith, Inc.  
(Respondent)

Case Number: 06-00540

Hearing Site: Columbus, Ohio

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Nature of the Dispute: Customer vs. Member.

**REPRESENTATION OF PARTIES**

Claimant Christine A. Triplett hereinafter referred to as "Claimant": Milton H. Fried, Jr., Esq., Woska & Hayes, LLP, Kingwood, TX.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. hereinafter referred to as "Respondent": David E. Bamberger, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, NY.

**CASE INFORMATION**

Statement of Claim filed on or about: February 3, 2006.  
Claimant signed the Uniform Submission Agreement: May 30, 2005.

Answer, Motion to Dismiss and Motion to Strike Pleading filed by Respondent on or about: April 10, 2006.  
Respondent signed the Uniform Submission Agreement: April 10, 2006.

**CASE SUMMARY**

Claimant asserted the following causes of action: negligence, misrepresentations, control person liability, breach of fiduciary duty, breach of contract, violation of know your customer rule, unsuitability, failure to diversify, failure to supervise, violations of the securities laws including the Ohio Securities Act and Ohio Consumer Sales Practices Act, and failure to hedge. The causes of action relate to unspecified securities.

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

**RELIEF REQUESTED**

Claimant requested compensatory damages in the amount of \$13,000.00 plus costs, attorneys' fees, interest, punitive damages and all other and further relief to which Claimant may be entitled.

Respondent requested the dismissal of the Statement of Claim in its entirety.

### **OTHER ISSUES CONSIDERED AND DECIDED**

By letter dated July 11, 2006, Respondent withdrew its Motion to Strike.

A pre-hearing conference was held on August 23, 2006 so that the Arbitrator could hear oral arguments on Respondent's Motion to Dismiss. After due deliberation, the Arbitrator granted the Motion to Dismiss.

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.

### **AWARD**

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

1. Claimant's claims are dismissed in their entirety.
2. Any and all relief not specifically addressed herein, including punitive damages, 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
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#### **Member Fees**

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated persons 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
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#### **Forum Fees and Assessments**

The Arbitrator has assessed forum fees for each session conducted or each decision rendered on a discovery-related motion on the papers. 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:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00	= \$ 900.00
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Pre-hearing conferences: July 10, 2006      1 session  
   August 23, 2006      1 session

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Total Forum Fees = \$ 900.00

1. The Arbitrator has assessed \$450.00 of the forum fees to Claimant.
2. The Arbitrator has assessed \$450.00 of the forum fees to Respondent.

**Fee Summary**

1. Claimant is solely liable for:

Initial Filing Fee	= \$ 125.00
Forum Fees	= \$ 450.00
<hr/> Total Fees	<hr/> = \$ 575.00
Less payments	= \$ 575.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 0.00

2. Respondent is solely liable for:

Member Fees	= \$ 425.00
Forum Fees	= \$ 450.00
<hr/> Total Fees	<hr/> = \$ 875.00
Less payments	= \$ 425.00
<hr/> Balance Due NASD Dispute Resolution	<hr/> = \$ 450.00

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

NASD Dispute Resolution  
Arbitration No. 06 00510  
Award Page 4 of 4

ARBITRATION PANEL

Robert L. Washburn, Esq.

- Solo Public Arbitrator

Robert L. Washburn, Esq.  
Robert L. Washburn, Esq.  
Solo Public Arbitrator

September 5, 2006  
Signature Date

September 7, 2006  
Date of Service (For NASD Dispute Resolution use only)