

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

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In the Matter of the Arbitration Between )  
 )  
ELIZABETH THIBODEAUX, )  
 ) Claimant, )  
 ) Case #88-03703  
vs. ) Award  
 )  
MERRILL LYNCH, PIERCE, FENNER & SMITH, INC. and )  
GEORGE HELM )  
 ) Respondents. )  
 )  
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Heard before the member of the Arbitration Panel:

H. Steven Holtzman, Esq.

CASE SUMMARY

This claim was filed with the NASD, Inc. on December 1, 1988. The hearing was conducted in Tampa, Florida on November 13, 1989 with a total of Two (2) sessions.

Claimant Elizabeth Thibodeaux ("Thibodeaux") alleged that Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and George Helm ("Helm") were liable for misrepresentation and for failing to inform Claimant of all the risks involved. Specifically, Claimant alleged that she was not told about the custodial fee which was charged on her IRA account and that Helm failed to inform Claimant when the Wang Labs Stock she had purchased increased in value as he had promised he would. Respondents alleged that: Claimant was informed of all the risks of investing in stocks; it was Claimant's decision not to sell the Wang Labs Stock; Claimant knew of the custodial fee; failed to prove any damages; failed to mitigate any damages she may have suffered and that the Statute of Limitations had been exceeded.

RELIEF REQUESTED

Claimant requested damages in the amount of Six Thousand Four Hundred and 00/100 (\$6,400.00) Dollars inclusive of interest and other costs. Respondents requested dismissal of the claim and costs.

AWARD

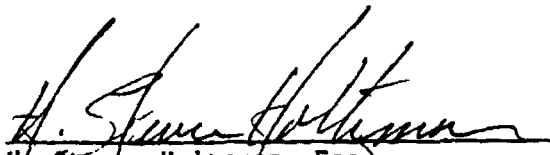
On November 13, 1989, the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by Claimant on November 28, 1988, and by Respondents Merrill Lynch on February 2, 1989 and by Helm on February 7, 1989. The arbitrator having considered the pleadings, the testimony, and the evidence presented at the hearing, has determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent Merrill Lynch is hereby directed to cooperate and coordinate with the Claimant in facilitating a transfer of Claimant's IRA and/or stock account to another custodian or brokerage firm of Claimant's choosing unless directed in writing to the contrary by the Claimant.
2. Respondent Merrill Lynch is hereby liable and shall pay to the Claimant the amount of Two Thousand Sixty-Two and 50/100 (\$2,062.50) Dollars and, in the event that the Claimant does not want the Wang Labs Stock transferred to another brokerage firm, Merrill Lynch shall offer to liquidate the Wang Labs Stock held in Claimant's account at no charge to the Claimant and deliver the proceeds of such liquidation to the Claimant.
3. Respondent Helm is hereby not liable and therefore all claims against him are hereby dismissed.
4. Respondent Merrill Lynch shall retain all IRA custodial fees paid by the Claimant as of the date of this Award.
5. Pursuant to Section 43 of the Code of Arbitration Procedure, the arbitrator has assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars (\$200 x 2 sessions). Respondent Merrill Lynch is hereby assessed forum fees in the amount of Four Hundred and 00/100 (\$400.00) Dollars, Two Hundred and 00/100 (\$200.00) Dollars of which shall be paid to the Claimant as a refund of filing fees and Two Hundred and 00/100 (\$200.00) Dollars of which shall be paid to the NASD, Inc. The NASD, Inc. shall retain the Two Hundred and 00/100 (\$200.00) Dollar filing fee previously deposited by the Claimant.
6. The parties shall each bear all other costs and expenses incurred by them in connection with this proceeding including attorney's fees.

OTHER ISSUES

None.

ARBITRATOR CONCURRING

  
H. Steven Holtzman, Esq.

Received this 29th day of November, 1989.