

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between  
Loretta A. Haack  
Claimant  
vs.  
Merrill Lynch, Pierce, Fenner & Smith, Inc.  
Respondent

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: AWARD #90-01038  
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### CASE SUMMARY

In a claim filed with the NASD on April 10, 1990 Claimant Loretta A. Haack alleged the Respondent misrepresented information regarding investments to her and failed to provide the Claimant with prospectuses, disclosure documents and adequate information to make an informed decision. The Claimant further alleged the Respondent mishandled her account and placed her in investments that were unsuitable for her. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. alleged the Claimant authorized the liquidations, transfers and investments made in her accounts, all investments were properly explained to the Claimant, she was provided with prospectuses and she made informed investment decisions. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. further maintained it acted in a commercially reasonable manner, consistent with its obligations and responsibilities toward the Claimant.

RELIEF REQUESTED

Claimant requested damages of \$5,400.00, also that 198.208 shares of Growth and Income plus its 2% sales charge be returned to Fidelity as well as the 1371.814 shares of Freedom Fund be released back to Fidelity with Respondent to pay the back load. Claimant further requested that \$2,684.80 from the EAB certificate of deposit with appropriate dividends be left with the Merrill Lynch, Pierce, Fenner & Smith, Inc. IRA plus a reimbursement of fees. Respondent requested dismissal of claim and that the costs of the proceeding be assessed against the Claimant.


AWARD

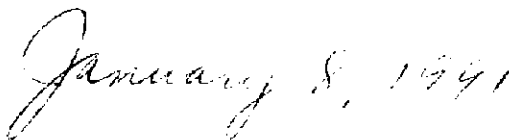
On November 6, 1990 the undersigned arbitrator heard the controversy between the parties as set forth in submissions to arbitration signed by the Claimant, Loretta A. Haack on March 28, 1990 and by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on May 29, 1990. The hearing was conducted at the NASD offices located in New York City, NY and consisted of two hearing sessions. 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:

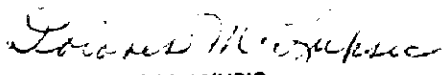
1. The Claimant's claim of Five Thousand Four Hundred Dollars and No Cents (\$5,400.00) for damages due to tax consequences suffered be and hereby is dismissed in all respects.
2. The Claimant shall relinquish ownership of the Merrill Lynch, Pierce, Fenner & Smith, Inc. Custodian Account for Loretta A. Haack IRA Account to the Respondent and then the Respondent, Merrill Lynch, Pierce, Fenner & Smith, Inc. shall pay to the Claimant the sum of Twenty Three Thousand Four Hundred Thirty-One Dollars and Sixty Cents (\$23,431.60), inclusive of interest.
3. The parties shall each bear their respective costs including attorney's fees.
4. Pursuant to Section 43 of the Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. shall retain the \$200.00 filing fee previously deposited by the Claimant. In addition, the Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. be and hereby is liable and shall pay to the National Association of Securities Dealers, Inc. the sum of \$200.00 to represent forum fees.

DATED: January 17, 1990

CONCURRING ARBITRATOR

  
Cynthia H. Plishtin

DATED: 

  
DOLORES M. LUKSIO  
A NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES  
SEPT. 18, 1992