

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Merrill Lynch, Pierce Fenner & Smith, Inc.

vs.

90-03400

Name of Respondent(s)

James R. Jones

REPRESENTATION

For Claimant: Dave Lenny, Esq., Law Office of Howard Meyers, 26147 Kenrose Circle, Calabasas, CA 91302

For Respondent: James R. Jones, Esq., 401 Civic Center Drive West, Santa Ana, CA 92701

CASE INFORMATION

Statement of Claim filed: December 3, 1990

Claimant's Submission Agreement signed on: June 11, 1990

Respondent did not file an answer.

Respondent did not file a submission agreement.

HEARING INFORMATION

Hearing Date(s)/Sessions: January 14, 1992, one session

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant alleged that respondent obtained twice from claimant the same \$7,000.00 (less debits) check he was owed, resulting in duplicate payments to the customer; respondent refused claimant's requests to return the second \$7,000.00 check (regarding trades in respondent's commodities account).

Respondent did not submit an answer.

RELIEF REQUESTED

Claimant requested:

1. Reimbursement in the amount of \$6,491.96;
2. Interest on the above amount (\$6,491.96) from February 22, 1990;
3. Attorney's fees pursuant to contract;
4. Filing fee; and
5. Costs.

OTHER ISSUES CONSIDERED & DECIDED

Although duly served, respondent did not appear at the arbitration; he is subject to National Association of Securities Dealers, Inc. (NASD) jurisdiction in accordance with NASD Code of Arbitration Procedure Sections 12 and 29.

ISSUES

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 is liable for and shall pay claimant the sum of \$6,491.96.
2. Respondent is liable for and shall pay claimant interest in the sum of \$1,298.39;
3. Respondent is liable for and shall pay claimant the sum of \$2,893.28 in attorney's fees and costs in accordance with Item No. 10 of the Merrill Lynch, Pierce, Fenner & Smith's Cash Management Account Agreement.

OTHER COSTS

None.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the NASD shall retain the \$200.00 filing fee previously deposited by the claimant, which is assessed against respondent and is to be paid to claimant. This assessment is calculated by multiplying one hearing session times the hearing deposit of \$200.00.

ADMINISTRATION PANEL

Name

Herman R. Friedberg, Esq.

Public/Industry

Public

Herman R. Friedberg
Herman R. Friedberg, Esq.

DATE SERVED: 02/04/92

Date of Decision: 12/27/92