

PUBLIC

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Lilly Miller

91-00700

Name of Respondent

Merrill Lynch, Pierce, Fenner & Smith, Inc.

REPRESENTATION

For Lilly Miller ("Claimant"): Raymond E. Millman

For Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Respondent"): Daniel, Esq. of Hilburn, Calhoun, Harper, Pruniski & Calhoun, Ltd.

Scott E.

CASE INFORMATION

Statement of Claim filed: March 4, 1991.

Revised Statement of Claim filed: August 12, 1991.

Claimant's Submission Agreement signed on: March 1, 1991.

Statement of Answer filed by Respondent on: May 20, 1991.

Respondent's Submission Agreement signed on: June 17, 1991.

HEARING INFORMATION

Hearing Dates/Sessions: January 16, 1992 - two sessions.

January 17, 1992 - two sessions.

TOTAL four sessions

Hearing Location: NASD office, Washington, D.C.

CASE SUMMARY

Claimant alleged that her account was churned in that there was unjustified, excessive turnover, particularly in high-commission securities. Claimant alleged that unsuitable investments were purchased for her account. Claimant alleged that unauthorized trading occurred in her account. Claimant alleged that given her age, financial status and investment objectives, Respondent should not have invested Claimant's funds in securities that were not liquid, had long-term payouts and high risk. Claimant alleged that the Merrill Lynch Fund for Tomorrow, Oxford Tax Exempt Fund Limited Partnership, Arvida/JMB Partners LP, MLH Income Realty V LP and JMB Income Properties Ltd. IX were unsuitable for Claimant. Claimant alleged that Respondent was aware that Claimant was confused and incapable of managing her investment affairs and that Respondent took advantage of the Claimant.

Respondent denied each and every allegation of the Claimant and specifically maintained that Claimant's investment objective was to generate income and that Claimant never expressed the need for liquidity. Respondent's maintained that Claimant was in good health until the Spring of 1988. Respondent maintained that there had been no indication that Claimant was suffering a disabling illness prior to that time. Respondent maintained that all transactions were discussed and approved by Claimant prior to execution. Respondent maintained all trades were suitable for and authorized by Claimant. Respondents maintained that Claimant's account was not churned. Respondent maintained that the handling of Claimant's account was not based upon an interest in commissions over the interests of Claimant. Respondent maintained that the funds and limited partnership that Claimant invested in were suitable.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$245,025.00; punitive damages in the amount of \$2,000,000.00, expenses, attorneys' fees, costs and interest.

Respondent requested that Claimant's claim be denied in its entirety and that the forum fees be assessed against Claimant.

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 originals remain on file with the NASD.

AWARD

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

1. That Oxford Tax Exempt Fund Limited Partnership '85, Arvida/JMB Partners LP '87, MLH Income Realty Partnership V, JMB Income Properties Ltd. IX '82, be transferred by Claimant to Respondent and that Respondent is directed to pay Claimant the sum of Eighty-Six Thousand and 00/100 Dollars (\$86,000.00); no interest is awarded on this amount.
2. That each party shall bear their own costs, including attorneys' fees.
3. That all other claims are denied in their entirety.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, forum fees are equally assessed between the Claimant and Respondent.

Four sessions were conducted in this matter the cost per hearing session is \$1000 for a total of \$4,000. Claimant is assessed \$2000 minus her hearing session deposit of \$750 so that the amount due as forum fees from Claimant is \$1,250. Respondent is assessed forum fees of \$2000.

Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name

Public/Industry

John W. Rader, Sr.
John W. Rader, Sr.

Industry Arbitrator

Date of Decision: March 23, 1992

AWARD

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

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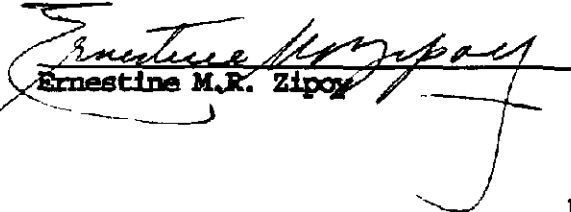
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ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name

Public/Industry


Ernestine M.R. Zipoy

Public Arbitrator

Date of Decision: March 23, 1992

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ARBITRATION PANEL

Concurring Arbitrators' Signatures

Name Sharon T. Nelson
Sharon T. Nelson, Esq./Chairperson

Public/Industry

Public Arbitrator

Date of Decision: March 23, 1992