

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :
:
Merrill Lynch, Pierce, Fenner & Smith, Inc. :
:
Claimant :
:
vs. :
:
Clint Campbell :
:
Respondent :

CASE #91-03608
AWARD

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on November 15, 1991, Claimant, Merrill Lynch, Pierce, Fenner & Smith, Inc. by and through their outside counsel, Gregory A. Pierce, Esq., of Gibbs & Ratliff, Houston, TX, alleged that in August 1990 Respondent, Clint Campbell, a public customer, opened an account with Claimant and signed a Capital Builder Account Agreement on August 14, 1990. Claimant further alleged that on September 24, 1990 Respondent purchased 1,000 shares of Continental Airlines stock at \$4.75 per share and the full price, including commissions, was \$4,938.23, at which time, Claimant never received payment from Respondent for the purchase of the stock. Claimant contended that on October 4, 1990 when Respondent failed to make payment, his account was liquidated and the stock was sold at \$3.75 per share, whereby, Respondent's account was credited with the sale proceeds of \$3,576.14, leaving a debit balance in his account. Claimant further contended that the account document requires Respondent to pay all debit balances upon demand and to date, Respondent has neither responded to Claimant's letters, nor paid his debit balance.

Respondent, Clint Campbell failed to file an Answer to the Statement of Claim.

RELIEF REQUESTED

Claimant, Merrill Lynch, Pierce, Fenner & Smith, Inc. requested \$1,313.17 in actual damages plus pre and post-judgment interest as allowed by law together with reasonable attorney's fees.

Respondent, Clint Campbell failed to file an Answer to the Statement of Claim.

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Kathryn Ann McCoach, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on December 9, 1991 and not signed by the Respondent as required by Sections 12 & 13 of the NASD Code of Arbitration Procedure.

1. In accordance with Section 13 of the NASD Code of Arbitration Procedure the Respondent, Clint Campbell was served a copy of the Statement of Claim by regular mail on February 24, 1992 and given an opportunity to respond, which he failed to do. Respondent, Clint Campbell was notified on May 4, 1992, via certified mail, that his Statement of Answer was overdue. The signed certified mail receipt was returned to the NASD, Inc. date stamped May 7, 1992, evidencing his receipt of this correspondence. Respondent, Clint Campbell failed to file an Answer to the Statement of Claim.
2. Pursuant to the By-Laws of the NASD the arbitrator determined that Respondent, Clint Campbell was required to submit to this arbitration proceeding and is, therefore, bound by the arbitrator's ruling and determination.

And, the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondent, Clint Campbell is liable and shall pay to the Claimant, Merrill Lynch, Pierce, Fenner & Smith, Inc. the sum of \$1,313.17 in damages.
2. Respondent, Clint Campbell is liable and shall pay to the Claimant, Merrill Lynch, Pierce, Fenner & Smith, Inc. the sum of \$140.00 representing attorney's fees pursuant to the contract and Chapter 38 of the Texas Civil Practice and Remedies Code.

3. Respondent, Clint Campbell is liable and shall pay to the Claimant, Merrill Lynch, Pierce, Fenner & Smith, Inc. simple interest at the statutory legal rate from October 4, 1990 to the date of payment of the award.
4. The parties shall bear their respective costs.
5. The \$575.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant, Merrill Lynch, Pierce, Fenner & Smith, Inc. shall be retained by the NASD, Inc.

AFFIRMATION

I, KATHRYN ANN McCOACH, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.



Signature of Arbitrator

DATE OF DECISION: August 25, 1992