

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Frances R. Robbins

NASD Arbitration
No.91-03810

Name of Respondent

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Mark Mathes
Troy Schaben

REPRESENTATION

For Claimant: Claimant represented herself.

For Respondents: Michael E. Olney, Esq., Merrill Lynch, Pierce, Fenner & Smith,
New York, New York.

CASE INFORMATION

Statement of Claim filed: August 11, 1992

Claimant's Submission Agreement signed on: November 29, 1991

Statement of Answer filed by Respondents on: February 4, 1992

Respondents' Submission Agreement signed:

Merrill Lynch:	February 3, 1992
Mark Mathes:	January 14, 1992
Troy Schaben:	January 14, 1992

HEARING INFORMATION

Hearing Dates/Sessions:	October 22, 1992	-	2 Sessions
	October 23, 1992	-	2 Sessions
	October 24, 1992	-	3 Sessions

Hearing Location: Seattle, Washington

CASE SUMMARY

Claimant alleged unauthorized trading, churning, unsuitable investment advice, fraud, and negligent misrepresentation with respect to investments made in common stocks, municipal bonds, limited partnerships and mutual funds.

Respondents denied all allegations of wrongdoing, and asserted that Claimant authorized all investments after full disclosure. Respondents further asserted that Claimant failed to state a claim upon which relief could be granted, that Claimant had not suffered any damages, that Claimant failed to mitigate damages, and that the statement of claim is barred by applicable statutes of limitations.

RELIEF REQUESTED

Claimant requested damages of \$116,425.00, including interest, emotional distress damages and punitive damages.

Respondents requested dismissal of all claims and an award of costs of arbitration and attorney's fees.

: 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, the undersigned arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant failed to prove by a preponderance of the evidence that she is entitled to damages from any of the Respondents; and further, even if Claimant had proved by a preponderance of the evidence that she is entitled to damages from any one or more of the Respondents, all claims are barred by applicable statutes of limitations; therefore, pursuant to the several motions to dismiss made by Respondents during the course of the arbitration hearing, Respondents' motion to dismiss based on statute of limitations grounds is granted.

2. The parties shall each bear their respective costs and fees, including attorney's fees.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed against Claimant:

6 Sessions @ \$750.00 / session	=	\$4,500.00
Credit for Hearing Deposit	=	\$ 500.00
Balance Due	=	<u>\$4,000.00</u>

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

ARBITRATORS

<u>Name</u>	<u>Public/Industry</u>
Herbert Freise, Esq.	Public Chairperson
Thomas McCulloch	Industry Panelist
Elwood Avery	Public Panelist

Concurring Arbitrators' Signatures

Herbert A. Freise
Herbert Freise, Esq.

DATE SERVED: 11/30/92

Thomas McCulloch

Elwood Avery

Date of Decision: 11-23-92