

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between

Name of Claimant

Maribel Flores

and

92-00500

Name of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.  
and Scott Lewandowski

REPRESENTATION OF PARTIES

Claimant was represented by Kenneth M. Stillman, Esq. of Stillman and Bennett, P.C., Dallas, Texas.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. was represented by Gregory D. May, Esq. and Mary Beth Marshall, Esq. of Decker, Hardt, Kopf, Harr, Munsch & Dinan, Dallas, Texas.

Respondent Scott Lewandowski was represented by Janie L. Frank, Esq. of Shannon, Gracey, Ratliff & Miller, L.L.P., Fort Worth, Texas.

CASE INFORMATION

The Statement of Claim was filed on or about February 11, 1992. Claimant Maribel Flores's Submission Agreement was signed on January 31, 1992.

Statement of Answer filed by Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on or about March 25, 1992. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc.'s Submission Agreement was signed on March 19, 1992 by Michael J. Stewart.

Statement of Answer filed by Respondent Scott Lewandowski on or about March 26, 1992. Respondent Scott Lewandowski's Submission Agreement was signed on March 17, 1992.

HEARING INFORMATION

The hearing was held on Thursday, October 15, 1992 in Dallas, Texas for a total of two (2) sessions.

CASE SUMMARY

Claimant alleged that respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Scott Lewandowski (collectively as "Respondents")

made unauthorized option transactions in her account and allowed the unauthorized withdrawal of funds from her account.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. stated that trades in dispute were initiated by the claimant's husband. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. further stated that prior to the trades claimant had directed it to accept trading instructions from her husband.

Respondent Scott Lewandowski denied the allegations set forth in the statement of Claim and stated that the claimant had instructed him to accept orders from her husband. Respondent Scott Lewandowski further stated that he had on numerous occasions requested that the claimant provide him and Merrill Lynch, Pierce, Fenner & Smith, Inc. with a power of attorney to confirm her order.

#### RELIEF REQUESTED

Claimant requested an award of compensatory damages in the amount of \$75,101.14, unspecified exemplary damages, attorney's fees in the amount of \$20,000.00, and costs.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. requested that the Claimant take nothing and that the claims asserted herein be dismissed and that it be awarded its' costs in defending this arbitration.

Respondent Scott Lewandowski requested that the claims be dismissed and that he be awarded his costs, attorney's fees and expenses incurred in this matter.

#### 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 original(s) 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. The claims asserted in this matter shall be and hereby are dismissed in their entirety.
2. Each party shall bear its' own costs, expenses and attorney's fees incurred in this matter not

specifically enumerated herein.

**FORUM FEES**

Pursuant to Section 43(c) of the NASD Code of Arbitration Procedure, the National Association of Securities Dealers, Inc. ("NASD") shall retain the non-refundable filing fee in the amount of \$150.00 and shall retain the hearing session deposit in the amount of \$500.00 previously deposited with the NASD by the Claimant and claimant shall pay to the Nasd the sum of \$500.00 as forum fees.

Forum fees are calculated at the rate of \$500.00 per hearing session. Fees are payable to the National Association of Securities Dealers, Inc.

Dated:

10-15-92

10/15/92

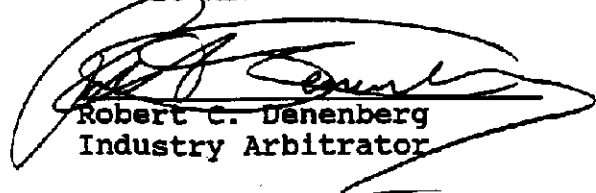
10/15/92



Arch B. Gilbert, Esq.  
Presiding Chair  
Public Arbitrator



George S. Thumlert, Jr., CPA  
Public Arbitrator



Robert C. Denenberg  
Industry Arbitrator