

PUBLIC

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between	:	
Linzel R. Hutson	:	
	:	
Claimant	:	CASE #92-01063
	:	AWARD
vs.	:	
	:	
Merrill Lynch, Pierce, Fenner & Smith, Inc.	:	
Sue Plattner	:	
Stephen Olsen	:	
	:	
Respondents	:	

CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 25, 1992, Claimant Linzel R. Hutson who appeared Pro Se, alleged that on March 26, 1991 Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc., Sue Plattner and Stephen Olsen sold his 800 shares of Wal-Mart stock from his IRA account without his verbal or written authorization. Claimant further alleged that he had selected those stocks for future growth to help him "ease thru the declining years". Claimant contended that there was no attempt by the Respondents to right the wrong in the illegal sale of his 800 shares of Wal-Mart from his IRA account.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., Sue Plattner and Stephen Olsen by and through their in-house counsel Daniel A. Gardella, Esq. maintained that on February 27, 1986 Claimant Linzel R. Hutson opened an IRA rollover account and from the inception of this account Claimant always indicated in conversations with Respondent Sue Plattner that she speak to his wife concerning any purchases or sales or sales of securities in this account. Respondents further maintained that Claimant's wife told Respondent Sue Plattner that she wished to sell the 800 shares of Wal-Mart in Claimant's IRA. Respondents contended that they acted in a commercially, reasonable manner consistent with their obligations and responsibilities toward Claimant, and that Respondents acted in good faith. Respondents further contended that Claimant did not attempt to mitigate his damages and fails to State a Claim.

Respondent Stephen Olsen asserted a Motion to Dismiss in that his only involvement was to perform his supervisory functions, whereby he reviewed and investigated Claimant's claim, therefore, he should be dismissed from this proceeding.

RELIEF REQUESTED

Claimant, Linzel Hutson requested \$10,000.00 in actual damages.

Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., Sue Plattner and Stephen Olsen requested the claim be denied and costs be assessed against Claimant.

AWARD

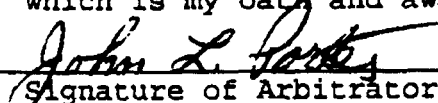
Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public Arbitrator, John L. Porter, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant on March 17, 1992 by the Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on June 24, 1992 and by Respondents Sue Plattner and Stephen Olsen in June 4, 1992.

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. The claims of Claimant Linzel R. Hutson against Respondents Merrill Lynch, Pierce, Fenner & Smith Inc., Sue Plattner and Stephen Olsen are dismissed.
2. The parties shall bear their respective costs.
3. The \$150.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant Linzel R. Hutson shall be retained by the NASD, Inc.

AFFIRMATION

I, JOHN L. PORTER, 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: November 12, 1992