

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant

Carson Ferri- Grant

92-03867

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc
Jacqueline Strauss

REPRESENTATION

For Claimant: Carson Ferri-Grant appeared pro-se.

For Respondents Merrill Lynch Pierce Fenner & Smith and Jacqueline Strauss: Elizabeth G. Armstrong, Esq. of Merrill Lynch Pierce Fenner & Smith.

CASE INFORMATION

Statement of Claim filed: November 16, 1992.

Claimant's Submission Agreement signed on: November 23, 1992.

Statement of Answer filed by Respondents, Merrill Lynch Pierce Fenner & Smith and Jacqueline Strauss on: February 1, 1993.

Respondent, Merrill Lynch Pierce Fenner & Smith's Submission Agreement signed on: January 29, 1993.

Respondent, Jacqueline Strauss' Submission Agreement signed on February 26, 1993.

HEARING INFORMATION

Hearing Date/Sessions: June 9, 1993 - 2 sessions.

Hearing Location: Harry's at Hanover Square - New York, NY.

CASE SUMMARY

Claimant alleges that the Respondents recommended unsuitable investments for his account, given his stated investment objectives. Claimant alleges that he never instructed Respondent, Jacqueline Strauss ("Strauss") to purchase stocks on margin, yet he was placed on margin and the account declined in value. Claimant alleges that he instructed Strauss to keep the account liquid, yet she invested a portion of the account in a limited partnership which was illiquid.

Respondents maintain that the Claimant indicated a desire to invest in the market more aggressively in order to earn a better rate than those of money market funds. Respondents deny that the Claimant instructed Strauss to keep the account liquid. Respondents maintain that Strauss and the Claimant discussed the feature of margin in his account and that Strauss also discussed the risks involved. Respondents maintain that the Claimant indicated that he understood the strategy. Respondents maintain that the Claimant was interested in different investment vehicles and fully discussed the ML Lee Acquisition Fund L.P. with Strauss. Respondents maintain that the Claimant received a prospectus and a sales brochure which describes the benefits and risks associated with investment in the partnership. Respondents maintain that all transactions in the Claimant's account were made by the Claimant who controlled his own account.

RELIEF REQUESTED

Claimant requested damages in the amount of \$29,719.60 plus commissions of \$4,964.29 and costs of this arbitration.

Respondents requested that the Statement of Claim be dismissed and that costs be assessed against the Claimant in favor of the Respondents.

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) Respondent, Merrill Lynch Pierce Fenner & Smith is hereby liable and shall pay to the Claimant the amount of \$3,000.00 (THREE THOUSAND DOLLARS AND NO CENTS).
- 2) Each party shall bear their respective costs of this action.

FORUM FEES

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

\$120.00	Non-refundable filing fee
\$800.00	Hearing Session fees (2 sessions x \$400.00)

- 1) The NASD shall retain the \$120.00 non-refundable filing fee paid by the Claimant.
- 2) Claimant is assessed one-half of the hearing session fees in the amount of \$400.00. Claimant is entitled to offset this amount with the \$400.00 hearing session deposit previously paid to the NASD.
- 3) Respondent, Merrill Lynch Pierce Fenner & Smith is hereby assessed one-half of the forum fees in the amount of \$400.00. Merrill Lynch is directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Chairperson

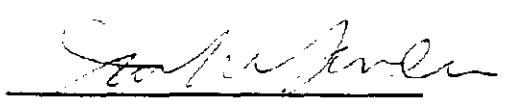

William Friedman, Esq.

Date of Decision: July 22, 1993

STATE OF NEW YORK
COUNTY OF

S.S.:

On this 10th day of July, 1993, before me personally appeared William Friedman known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that he executed the same.


JACK A. SENDER
Notary Public, State of New York
No. 03-4636438
Qualified in Bronx County
Commission Expires February 28, 1995

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) Respondent, Merrill Lynch Pierce Fenner & Smith is hereby liable and shall pay to the Claimant the amount of \$3,000.00 (THREE THOUSAND DOLLARS AND NO CENTS).
- 2) Each party shall bear their respective costs of this action.

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- 2) Claimant is assessed one-half of the hearing session fees in the amount of \$400.00. Claimant is entitled to offset this amount with the \$400.00 hearing session deposit previously paid to the NASD.
- 3) Respondent, Merrill Lynch Pierce Fenner & Smith is hereby assessed one-half of the forum fees in the amount of \$400.00. Merrill Lynch is directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Industry Arbitrator

Marcia Kessler
Marcia Kessler

Date of Decision: July 22, 1993

Page 4
Case #92-03867

STATE OF NEW YORK
COUNTY OF *New York*

S.S.:

ELIZABETH SANSANCO
Notary Public, State of New York
No. 43-4962660
Qualified in Richmond County 45
Commission Expires June 18, 1995

On this *15th* day of July, 1993, before me personally appeared Marcia Kessler known to me to be the individual described in and who executed the foregoing instrument and be duly acknowledged to me that she executed the same.

Elizabeth Sansanco

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) Respondent, Merrill Lynch Pierce Fenner & Smith is hereby liable and shall pay to the Claimant the amount of \$3,000.00 (THREE THOUSAND DOLLARS AND NO CENTS).
- 2) Each party shall bear their respective costs of this action.

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- 1) The NASD shall retain the \$120.00 non-refundable filing fee paid by the Claimant.
- 2) Claimant is assessed one-half of the hearing session fees in the amount of \$400.00. Claimant is entitled to offset this amount with the \$400.00 hearing session deposit previously paid to the NASD.
- 3) Respondent, Merrill Lynch Pierce Fenner & Smith is hereby assessed one-half of the forum fees in the amount of \$400.00. Merrill Lynch is directed to pay this amount to the NASD, Inc.

Concurring Arbitrator's Signature
Name

Public Arbitrator


Mitchel Rothbard

Date of Decision: July 22, 1993

Page 4

Case #92-03867

STATE OF NEW YORK
COUNTY OF *WESTCHESTER*

S.S.:

On this *9* day of July, 1993, before me personally appeared Mitchel Rothbard known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

Anthony M. Maddalena

ANTHONY M. MADDALENA
Notary Public, State of New York
No. 60-2462088
Qualified in Westchester County *NY*
Commission Expires *Jan 13 94*