

NATIONAL ASSOCIATION OF SECURITIES DEALERS

BERNADINE F. HAYES,

Claimant

v.

MERRILL, LYNCH, PIERCE,
FENNER, & SMITH, INC.,

Respondent

No. 93-00115

AWARD

CASE SUMMARY AND RELIEF REQUESTED

This is a claim filed by Bernadine Hayes against Merrill, Lynch, Fenner and Smith on December 27, 1992 seeking damages including consulting fees, expert fees, damages for mental distress, lost wages, and attorneys fees in the total amount of \$10,000.00. The dispute arises from an error by respondent Merrill, Lynch, Fenner & Smith (hereinafter "Merrill Lynch") in the registration of claimant Bernadine F. Hayes's (hereinafter "Hayes") two I.R.A. accounts during the years 1984, 1985, 1986, 1987 and 1988 resulting in Internal Revenue Service and Massachusetts Department of Revenue Assessments.

Attorney Diane Gordon represented claimant Hayes and Attorney Brian G. Killian represented Merrill Lynch. A hearing was held on August 27, 1993 at the Office of NASD, Inc., 260 Franklin Street, Boston, MA 02110. The issue presented was what damages, if any, the claimant incurred and was entitled to recover in connection with the error in her account.

RELIEF REQUESTED

Claimant requested compensatory damages, damages arising out of lost wages and mental distress, costs, interest, and attorney fees. Respondent requested that the claim be dismissed and that Respondent be awarded costs and reasonable attorneys' fees.

AWARD

Claimant is awarded \$1225.00 without interest and Respondent shall additionally reimburse Claimant for Claimant's filing fees and deposits with the NASD in the amount of \$275.00 for a total payment by Respondent to Claimant in the amount of \$1500.00. The NASD shall retain the filing fees and deposits received from Claimant. Respondent is additionally assessed and shall additionally pay to the NASD forum fees in the amount of \$200.00. The parties shall otherwise each bear their own respective costs including their own respective attorneys' fees.

All other claims, including without in any way limiting the foregoing, claims for mental distress, attorneys' fees, interest, and punitive damages are dismissed.

Executed on:

October 27, 1993

Daniel H. Kelleher
Daniel H. Kelleher,
Arbitrator

Date of Decision: November 2, 1993