

**N.A.S.D. AWARD**

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**  
In the matter of the Arbitration Between

**Name of Claimant**

Gloria N. Zwinak

NASD Arbitration  
No. 93-03627

**Name of Respondents**

Merrill Lynch, Pierce Fenner & Smith, Inc.  
Steven Fillingim  
June Nugata Buslepp  
Ken Cadaratte

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**REPRESENTATION**

For Claimant: Rodney W. Wickers, Esq. - Torrance, California

For Respondents: Michael J. Abbott and Glenn J. Dickinson, Esq. - Jones, Bell, Simpson  
& Abbott - Los Angeles, California

**CASE INFORMATION**

Statement of Claim filed: September 16, 1993

Claimant's' Submission Agreement signed: September 7, 1993

Joint Statement of Answer filed by Respondents: December 20, 1993

Respondents' Submission Agreement signed: December 20, 1993

**HEARING INFORMATION**

Hearing Dates / Sessions: August 4, 1994 - Two Sessions  
August 5, 1994 - Two Sessions

Hearing Location: Los Angeles, California

### CASE SUMMARY

Claimant, Gloria Nell Zwinak (Zwinak), alleged that Respondent, June Nugata Buslepp (Buslepp), while employed by Respondent, Merrill Lynch, caused Zwinak tax liability when Buslepp failed to return withdrawn funds to Zwinak's IRA account within the statutory time period.

Respondents, answering jointly, alleged that Zwinak did not have sufficient unencumbered asset in her brokerage account to re-deposit the funds withdrawn from her IRA and that the attempt to repay her IRA was delayed by Zwinak's own failure to timely obtain and transfer additional funds to her IRA account.

### RELIEF REQUESTED

Claimant seeks to recover the sum of \$17,202.00, interest, penalties, costs, fees and attorneys' fees.

Respondents seek dismissal of the claim in its entirety plus costs and attorneys fees.

### OTHER ISSUES CONSIDERED AND DECIDED

Prior to the commencement of the hearing, a stipulation regarding the voluntary dismissal as to Respondents, Steven Filligim and Ken Cadaratte was offered, agreed to by Claimant and granted by the Arbitrator. This was a voluntary dismissal by Claimant prior to the hearing and did not in any way reflect any admissions, payments or settlements by said Respondents.

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 remains on file with the NASD.

### AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents, Merrill Lynch, Pierce, Fenner & Smith, Inc., and June Nugata Buslepp, are jointly and severally liable and shall pay to Claimant, Gloria N. Zwinak, the sum of Four Thousand Seven Hundred Fifty Dollars and No Cents (\$4,750.00).
2. The parties shall each bear their respective costs and fees.

3. The NASD shall retain all fees and deposits.

**FORUM FEES**

Pursuant to Section 43(c) of the Code of Arbitration Procedure, no additional forum fees are assessed.

**ARBITRATOR**

<u>Name</u> .....	<u>Public / Industry</u>
Thomas Adams	Public Chairperson

Concurring Arbitrator's Signature

Thomas M. Adams