

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the matter of the Arbitration Between

Name of Claimant

Christen Brown

NASD Arbitration
No. 93-04309

Name of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
George W. Hugh

REPRESENTATION

For Claimant: H. Thomas Fehn, Esq. - Fields, Fehn & Sherwin - Los Angeles, California

For Respondents: Susan E. M. Rule, Esq. - Morrison & Foerster - Los Angeles, California

CASE INFORMATION

Statement of Claim filed: October 19, 1993

Claimant's Submission Agreement signed: October 5, 1993

Joint Statement of Answer filed by Respondents: February 10, 1994

Submission Agreement signed by Respondent, Merrill Lynch on January 28, 1993

Submission Agreement signed by Respondent, George W. Hugh on February 9, 1994

HEARING INFORMATION

Hearing Dates / Sessions: October 20, 1994 - Two Sessions

Hearing Location: Los Angeles, California

CASE SUMMARY

Claimant, Christen Brown (Brown), alleged that Respondents breached their fiduciary duty and were negligent by allowing an unauthorized third party to access Brown's account and make a series of withdrawals totaling approximately \$28,400.00. Said illegal activity was allowed to occur due to Merrill Lynch's lack of proper supervisory controls over Brown's account.

Respondents alleged that Brown was made aware of all transactions in her account and that the chain of causation was severed by intervening criminal acts by a third party.

RELIEF REQUESTED

Claimant seeks to recover general damages of \$28,400.00, punitive damages, interest, costs and attorney's fees.

Respondents seek dismissal of the claim in its entirety.

OTHER ISSUES CONSIDERED AND 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 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. Each and every claim of Claimant, Christen Brown, against Respondents, Merrill Lynch Pierce Fenner & Smith, Inc., and George W. Hugh, is dismissed.
2. The parties shall each bear their respective costs and fees, including attorney's fees.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure,

1. Claimant is assessed the sum of \$300.00 for fees for one hearing session.
2. Respondents are assessed the sum of \$300.00 for one hearing session.

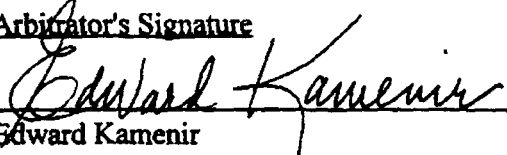
Fees are payable to the National Association of Securities Dealers, Inc.

ARBITRATORS

Name
Edward Kamenir

Public / Industry
Public Arbitrator

Arbitrator's Signature


Edward Kamenir

Served 11/18/94

Date of Decision: Oct 20 '94