

PHILADELPHIA STOCK EXCHANGE, INC.

In the Matter of Arbitration Between :
:
F. Eugene Mitchell, Individually, :
F. Eugene Mitchell for the trust :
of Francis V. Mitchell, :
: Claimants : Decision
v. : File #93-21
:
Merrill Lynch, Pierce, Fenner, :
and Smith, Inc., :
: Respondent :
:

Claimants filed a Statement of Claim and notarized Submission Agreement with the Philadelphia Stock Exchange, Inc. ("Exchange") which was received by the Exchange on October 7, 1993. Claimants alleged Unsuitability; Fraud; Breach of Contract and Fiduciary Duty; Negligence; Failure to Supervise; Violations of Federal and State Securities Laws; and Violations of Pennsylvania Unfair Trade Practice and Consumer Protection Law Act. Claimants sought to recover damages from the Respondent in excess of \$40,000.00. The Respondent's Answer was received by the Exchange on November 24, 1993.

A preliminary hearing on discovery matters was held on September 29, 1994. The hearing on the merits was held in Philadelphia on January 9, 1995 at the Exchange. Gary Soloman, Chairman, Peter Mooney, Cynthia Turner and Steven Stern presided as the appointed and confirmed arbitrators.

After having heard the presentations of the parties, it is hereby decided and determined in favor of Respondent and against Claimants. It is determined that Claimants' Statement of Claim is hereby DENIED in its entirety.

Costs are assessed against the Claimants and the Respondent equally in the amount of \$1,300.00. Claimants and Respondent are each to remit their check for \$650.00 to the Philadelphia Stock Exchange, Inc. within ten (10) business days from receipt of service of this Decision. Claimants are credited with their \$500.00 initial deposit fee and therefore need only to remit \$150.00 to the Exchange.

1/9/95
Dated

Gary Soloman, Chairperson

Peter Mooney

Cynthia Turner

Steven Stern