
In the Matter of the Arbitration Between

Name of Claimant

Susan DeLand

95-02946

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
John M. Connell, III
James Rintoul

REPRESENTATION

For Claimant Susan DeLand ("Claimant") appeared Barry J. Wendt, Esq., a private practitioner located in Audubon, New Jersey.

For Respondents Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill Lynch"), John M. Connell, III ("Connell"), and James Rintoul ("Rintoul") (collectively referred to as "Respondents") appeared Edwin A. Zipf, Esq. of the firm Bressler Amery & Ross located in Morristown, New Jersey.

CASE INFORMATION

Claimant's Statement of Claim was filed on June 15, 1995. Claimant's Submission Agreement was signed on June 8, 1995.

A Joint Statement of Answer was filed by Respondents on August 10, 1995. Respondent Merrill Lynch's Submission Agreement was signed on August 23, 1995. Respondent Connell's Submission Agreement was signed on August 17, 1995. Respondent Rintoul's Submission Agreement was signed on August 14, 1995.

HEARING INFORMATION

Pre-Hearing Conference:	October 23, 1996	-	One Session
Hearing Dates/Sessions:	June 4, 1997	-	Two Sessions
	August 22, 1997	-	Two Sessions
	November 5, 1997	-	Two Sessions
	November 7, 1997	-	Two Sessions

The pre-hearing conference was held telephonically. The hearing was conducted at the offices of NASD Regulation, Inc., located in New York, New York.

CASE SUMMARY

Claimant stated that her father opened a trust account housed with Respondent Merrill Lynch, and that Respondent Connell was the account executive. Claimant stated that upon her father's death on August 31, 1990, she became the sole trustee of the trust. Claimant alleged that Respondent Connell sold unsuitable and risky covered options to her. Claimant also alleged that Respondent Connell misrepresented the risks associated with and failed to fully explain the call option program in which she was involved. Claimant further alleged that these misrepresentations and omissions caused economic harm to her. Claimant asserted that Respondent Connell breached his fiduciary duty to her by failing to explain to her all of the risks associated with option trading, and that his inactivity violated his duty to mitigate damages. Claimant also asserted that Respondent Merrill Lynch, as Respondent Connell's employer, was equally culpable for these actions under the theory of respondeat superior. Claimant alleged that Respondents Connell and Merrill Lynch have been unjustly enriched by their actions.

Respondents specifically denied all allegations of wrongdoing set forth in the Statement of Claim. Respondents maintained that the option activity which was commenced in the trust account by Claimant's father was suitable for the account and was specifically authorized by the trust agreement. Respondents also maintained that the risks of the option activity were fully disclosed and discussed with the Claimant.

RELIEF REQUESTED

Claimant requested compensatory damages of \$185,586.21, plus interest, attorneys' fees and costs.

Respondents requested that the Statement of Claim be dismissed with prejudice in its entirety, and that costs be assessed against Claimant.

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.

Respondent James Rintoul was dismissed with prejudice from the case by Claimant on June 27, 1996.

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. Claimant's relief requests are hereby denied in their entirety.
2. Each party shall bear its respective costs, including attorneys' fees, except that Respondent Merrill Lynch is liable for and shall pay to Claimant the sum of \$750.00 to reimburse Claimant for the hearing session deposit she previously paid to NASD Regulation, Inc.
3. All other requests for relief are hereby denied.

FORUM FEES

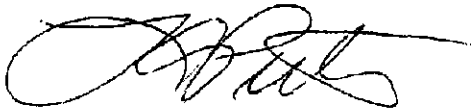
Pursuant to Rule 10205(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc. shall retain the \$200.00 non-refundable filing fee and the \$750.00 non-refundable postponement fee previously submitted by the Claimant and have assessed the following forum fees:

1 pre-hearing conference x \$300.00	=	\$ 300.00
8 Hearing Sessions x \$750.00	=	\$6,000.00
Total Forum Fees	=	\$6,300.00

1. Respondent Merrill Lynch is liable for and shall pay the sum of \$6,300.00, representing the total amount of forum fees assessed.
2. Claimant previously deposited \$750.00 with NASD Regulation, Inc., and, therefore, Respondent Merrill Lynch shall pay the balance of \$5,550.00 to NASD Regulation, Inc., and \$750.00 to Claimant as provided in the "Award" section above.
3. Respondent Merrill Lynch is liable for and shall pay to NASD Regulation, Inc. \$350.00, representing the Member Surcharge.

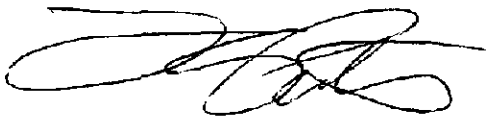
Fees are payable to NASD Regulation, Inc.

ARBITRATORS' SIGNATURES

A handwritten signature in black ink, appearing to be 'L. Pittore', written over a horizontal line.

Lawrence A. Pittore, Esq.
Public Chairperson

I, Lawrence A. Pittore, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.

A handwritten signature in black ink, appearing to be 'L. Pittore', written over a horizontal line.

Lawrence A. Pittore, Esq.
Public Chairperson

Date of Decision: January 22, 1998

ARBITRATORS' SIGNATURES



Neil J. Carey

Public Panelist

I, Neil J. Carey, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.




Neil J. Carey

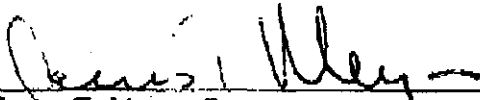
Public Panelist

Date of Decision: January 22, 1998

ARBITRATORS' SIGNATURES


James T. Meyer, Esq.
Industry Panelist

I, James T. Meyer, Esq., do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument which is my award.


James T. Meyer, Esq.
Industry Panelist
Date of Decision January 22, 1998