

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

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In the Matter of the Arbitration Between

Name of Claimant

Shahnaz Keramati

96-01127

Name of Respondent

Merrill Lynch Pierce Fenner & Smith Inc  
Brian P. Sexton

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CASE SUMMARY

In a claim filed with the National Association of Securities Dealers, Inc. on March 14, 1996, Claimant Shahnaz Keramati ("Claimant"), who appeared Pro Se, alleged that Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") and Brian P. Sexton ("Sexton"), gave her unsuitable investment advice. Claimant further alleged that she informed Sexton, a broker at Merrill Lynch, that she had no prior securities investment experience, and would rely on Sexton's advice and counseling. Claimant contended that at no time during the client-broker relationship did Sexton inquire into Claimant's financial net worth or financial objectives. Claimant further contended that based on Sexton's recommendations she purchased 100 shares of PIXAR ANIMATION STUDIOS ("Pixar") at a price of \$42 1/4 per share, for a total purchase price of \$4,333.11. Claimant asserted that shortly after the Pixar purchase, she learned that the Pixar per share price was down about 40%. Claimant further asserted that she subsequently sold her shares of Pixar for a loss of \$2,064.12. Claimant alleged that the Pixar holdings were completely unsuitable for her investment objectives and that Merrill Lynch failed in its duty to adequately supervise Sexton's handling of her account. Claimant further alleged that due to the wrongdoing of the Respondents, she has suffered damages for which the Respondents should be held liable.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. and Respondent Brian P. Sexton through their representative and in-house counsel, Marie Vavra-Coleman, Esq., maintained in that they never recommended that Claimant purchase shares of Pixar and that the stock was recommended to her by someone other than Respondents. Respondents further maintained that when Claimant opened her account at Merrill Lynch, she indicated to Sexton that she had \$30,000.00 in her checking account, had an annual salary from \$50,000.00-\$99,000.00, and a net worth ranging between \$100,000.00 and \$149,000.00.

Respondents alleged that Merrill Lynch's research department did not follow the stock, and that all risks associated with this investment were fully explained. Respondents further alleged that in a conversation with Kathleen Durning, an Administrative Manager at Merrill Lynch, Claimant stated that "I didn't want to pay more because I knew it was a bad stock and that the price was going to plummet." Respondents maintained that Claimant further stated that she bought the stock because she knew it was volatile and thought the price might go up. Respondents further maintained that they acted in a commercially reasonable manner, consistent with their obligations and responsibilities. Respondents alleged that they had committed no wrongdoing and requested that the claims against them be dismissed.

#### **RELIEF REQUESTED**

Claimant Shahnaz Keramati requested \$2,064.00 in actual damages plus general, consequential and incidental losses to be determined by the arbitrator. Claimant also requested costs, attorney's fees and such other and further damages as the arbitrator deems just and proper.

Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. and Respondent Brian P. Sexton requested that the claims of the Claimant be dismissed and that the costs of the proceeding be assessed against the Claimant.

#### **AWARD**

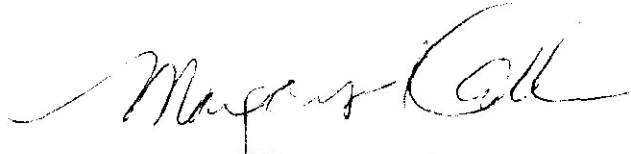
Pursuant to Section 10302 of the NASD, Inc. Code of Arbitration Procedure, a single Public Arbitrator, Margaret Kallman, was selected to review the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimant Shahnaz Keramati on March 7, 1996, and by the Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. on April 29, 1996, and by the Respondent Brian P. Sexton on April 30, 1996.

And, the Arbitrator, having considered the proof of the parties, has decided and determined in full and final resolution of the issues submitted for determination as follows:

1. Respondents Merrill, Lynch, Pierce, Fenner & Smith, Inc. and Brian P. Sexton are jointly and severally liable and shall pay to the Claimant Shahnaz Keramati \$1,032.00 in actual damages.
2. Respondents Merrill, Lynch, Pierce, Fenner & Smith, Inc. and Brian P. Sexton are jointly and severally liable and shall pay to the Claimant Shahnaz Keramati simple interest at the rate of 7% per annum from February 24, 1996 to the date of the award.
3. The parties shall bear their respective costs.
4. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimant shall be retained by the NASD, Inc. Respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and Brian P. Sexton are jointly and severally liable and shall pay to the Claimant Shahnaz Keramati \$50.00 as reimbursement of the filing fee.
5. All other relief requests are denied.

**AFFIRMATION**

I, **MARGARET KALLMAN**, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

A handwritten signature in cursive script, appearing to read "Margaret Kallman", written in dark ink.

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Signature of Arbitrator

DATE OF DECISION:                      October 18, 1996