

N.A.S.D. FINAL ORDER

NATIONAL ASSOCIATION OF SECURITIES DEALERS

In the Matter of the Arbitration Between

Name of Claimant(s)

Robert N. Sturwold
Roy Sturwold
Rita M. Sturwold

96-01263

Name of Respondent(s)

Merrill Lynch Pierce Fenner & Smith Inc

REPRESENTATIONS

Claimants Robert Sturwold and Roy Sturwold appeared pro se. Claimant Rita Sturwold did not attend the hearing. (hereinafter collectively "claimants").

For respondent Merrill Lynch, Pierce, Fenner & Smith, Inc. ("respondent") appeared John Kilkenny, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc.

CASE INFORMATION

| | |
|--|-----------------|
| Statement of Claim filed: | March 21, 1996. |
| Claimants' Submission Agreement signed on: | March 14, 1996. |
| Statement of Answer filed: | July 15, 1996. |
| Respondent's Submission Agreement signed on: | July 15, 1996. |

HEARING INFORMATION

Hearing dates/sessions: November 6, 1996 - One session

The hearing was held at the Doubletree Guest Suite Hotel, Columbus, Ohio.

OTHER INFORMATION

This was a dispute between a public customer and a member firm of the NASD.

The arbitration panel made the following rulings:

1. Claimants made a motion for a protective order providing that claimants be protected from having to provide discovery to respondent. The panel considered the motion and denied claimants' request.
2. Claimants made a motion for Summary Judgment. The panel considered the motion and denied claimants' request.
3. Respondent made a motion for Summary Judgment citing the Ohio court's order dated November 4, 1996 re-opening the estate of Christene M. Sturwold for the purpose of transferring the Merrill Lynch account to the Christene M. Sturwold Trust. The panel considered the motion and granted respondents' request to dismiss the Statement of Claim in its entirety.
4. The panel also determined to dismiss the Statement of Claim with prejudice for claimants' failure to provide discovery to respondent pursuant to the Order of Discovery issued by the panel Chair on September 27, 1996.
5. Each party is to bear their own costs and attorney's fees.

RELIEF REQUESTED

Claimants requested an award against respondent seeking transfer of the Christene M. Sturwold account from Merrill Lynch to the Christene M. Sturwold Trust; compensatory damages of \$10,000.00 and punitive damages of \$10,000.00.

Respondent requested that the Statement of Claim be dismissed in its entirety and further requested costs and expenses incurred in defense of this action.

FORUM FEES

Pursuant to Section 43(c) of the Code of Arbitration Procedure, the arbitrators have determined that the NASD shall retain \$100.00 the non-refundable filing fee previously deposited by claimants. In addition, the following forum fees are assessed:


| | |
|-------------------------------|----------------|
| 1 session x \$400.00 = | \$400.00 |
| minus hearing session deposit | <u>-400.00</u> |
| Total due | 0.00 |

Claimants have previously deposited \$400.00 with the NASD. Therefore there are no fees owed to the NASD.

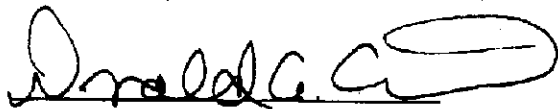
Arbitrators Signatures

Benjamin B. Segel, Esq.

Robert Shiffra, Esq.


Donald A. Antrim, Esq.

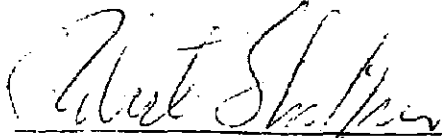
I, Donald A. Antrim, Esq., hereby certify that this is my decision in the above-referenced matter.



NASD Date of Decision: November 25, 1996

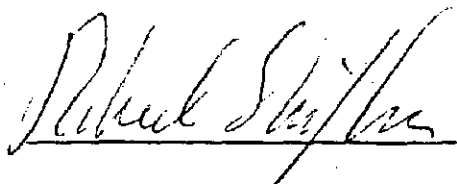
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Benjamin B. Segel, Esq.


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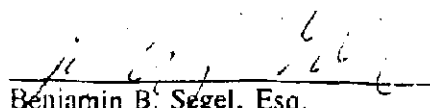
Donald A. Antrim, Esq.


I, Robert Shiffra, Esq., hereby certify that this is my decision in the above-referenced matter.




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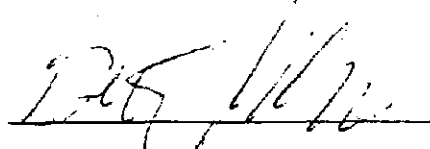
Arbitrators' Signatures


Benjamin B. Segel, Esq.


Robert Shiffra, Esq.


Donald A. Antrim, Esq.

I, Benjamin B. Segel, Esq., hereby certify that this is my decision in the above-referenced matter.



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