

NASD REGULATION AWARD

In the Matter of the Arbitration Between

Name of Claimants

Charles R. and Marcia E. Fuller

96-01763

Name of Respondents

Merrill Lynch Pierce Fenner & Smith Inc
David A. Johnson

REPRESENTATION

For claimants Charles R. and Marcia E. Fuller ("claimants") appeared Michael P. Pagnozzi, Esq., of the law offices of McKenna & Cuneo, LLP located in Denver, Colorado.

For respondents Merrill Lynch, Pierce, Fenner & Smith, Inc. and David A. Johnson ("respondents") appeared Bryan G. Killian, Esq. and Barbara O'Donnell, Esq., of the law offices of Sherin and Lodgen, LLP located in Boston, Massachusetts.

CASE INFORMATION

Statement of Claim was filed on: April 15, 1996.

Claimants' Submission Agreement was signed on: April 11, 1996.

Joint Statement of Answer was filed by respondents on: June 26, 1996.

Respondent Merrill Lynch Pierce Fenner & Smith, Inc.'s Submission Agreement was signed on: August 2, 1996.

Respondent David A. Johnson's Submission Agreement was signed on: December 2, 1996.

HEARING INFORMATION

Pre-Hearing Conference:	April 28, 1997	-	1 session
Hearing Dates/Sessions:	May 6, 1997	-	2 sessions
	May 7, 1997	-	2 sessions
	May 8, 1997	-	2 sessions

The hearings were conducted at the offices of NASD Regulation, Inc. located in Boston,

Massachusetts.

CASE SUMMARY

In their Statement of Claim, claimants alleged that respondents made improper recommendations and misrepresentations, and provided inaccurate information to claimants in connection with their sale of 66,008 shares of Republic Waste Industries, Inc. stock. Claimants alleged that they suffered actual damages and lost profits, that respondents are responsible for the damages and losses and that respondents should provide claimants with monetary relief.

In their Answer, respondents denied the allegations of claimants regarding wrongdoing by respondents. Respondents also stated that respondent Johnson only recommended tax strategy involving a sale and repurchase after thirty-one days regarding Republic Waste Industries, Inc. stock, which recommendation was not followed by claimants, and that if the recommendation had been followed in full, claimants would have reestablished their position before the increase in value of Republic Waste Industries, Inc. stock.

RELIEF REQUESTED

Claimants requested actual damages of \$250,000.00, lost profits of \$2,500,000.00, punitive damages in excess of \$5,000,000.00, plus attorneys' fees and costs.

Respondents requested that the claim be denied.

OTHER ISSUES CONSIDERED & DECIDED

After a pre-hearing conference by telephone on April 28, 1997 between the chairman of the panel and counsel for all claimants and respondents, the chairman issued, on behalf of the panel, an Order of Production with Confidentiality Provisions dated May 1, 1997 addressed to all claimants and respondents.

The parties agreed that they would provide, at their expense, a court reporter, who made a stenographic record of the hearings, the transcript of which shall be the official record of the hearings.

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.

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. All claims against respondents are denied in their entirety.

2. Claimant's request for punitive damages is hereby denied.
3. Claimant's request for attorneys' fees is hereby denied.
4. All other requests are hereby denied.

FORUM FEES

Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, the arbitrators have determined that NASD Regulation, Inc., shall retain the \$300.00 non-refundable filing fee previously paid by claimants and have assessed the following forum fees:

1 pre-hearing conference	=	\$ 300.00
<u>6 hearing sessions x \$1,500.00</u>	=	<u>\$9,000.00</u>
Total Forum Fees	=	\$9,300.00

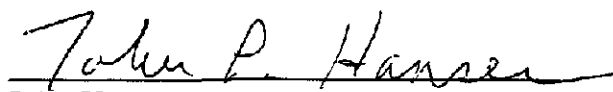
1. Claimants be and hereby are jointly and severally liable for \$4,650.00, representing one-half of the total amount of forum fees assessed. Claimants previously deposited \$1,500.00 with NASD Regulation, Inc., and, therefore, claimants shall pay the balance of \$3,150.00.
2. Respondent Merrill Lynch, Pierce, Fenner & Smith, Inc., be and hereby is liable for and shall pay the sum of \$4,650.00, representing one-half of the total amount of forum fees assessed.

Fees are payable to the NASD Regulation, Inc.

Arbitrators' Signatures

David Plimpton, Esq.
Chairperson-Public Arbitrator

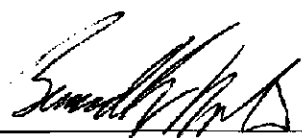
Bernard N. Roth
Public Arbitrator


John Hansen
Industry Arbitrator

Date of Decision: June 19, 1997

Arbitrators' Signatures

David Plimpton, Esq.
Chairperson-Public Arbitrator

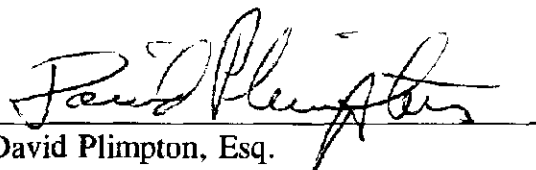


Bernard N. Roth
Public Arbitrator

John Hansen
Industry Arbitrator

Date of Decision: June 19, 1997

Arbitrators' Signatures

A handwritten signature in cursive script, appearing to read "David Plimpton", written over a horizontal line.

David Plimpton, Esq.
Chairperson-Public Arbitrator

Bernard N. Roth
Public Arbitrator

John Hansen
Industry Arbitrator

Date of Decision: June 19, 1997