

AWARD

NASD REGULATION, INC., OFFICE OF DISPUTE RESOLUTION

In the matter of the Arbitration Between

Name of Claimant

James D. Reiter, IRA
James D. Reiter TTEE/Reiter Family Trust

v.

Arbitration No.
96-04361

Name of Respondents

Merrill Lynch, Pierce, Fenner & Smith, Inc.
Kirk Woodley

REPRESENTATION OF PARTIES

James D. Reiter, IRA and James D. Reiter TTEE/Reiter Family Trust ("Claimant") were represented by Eileen L. McGeever, Esq., Rushall & McGeever, Carlsbad, California.

Merrill Lynch, Pierce, Fenner & Smith, Inc. and Kirk Woodley ("Respondents") were represented by Todd A. Zuckerbrod, Esq., Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, New York.

CASE INFORMATION

Claimant's Statement of Claim was filed on or about September 26, 1996. James Reiter's Submission Agreement was signed on September 26, 1996. The Submission Agreement for the Trust Account was signed on November 5, 1996.

Respondents Joint Statement of Answer was filed on or about January 13, 1997. The Submission Agreement for Merrill Lynch, Pierce, Fenner & Smith, Inc. was signed on January 13, 1997. The Submission Agreement for Kirk Woodley was signed on December 12, 1996.

HEARING INFORMATION

Pre-hearing conferences were held on March 4, 1997 and May 20, 1997. Each lasted one session.

The hearing was held on July 22 and 23, 1997 in San Diego, California for a total of 4 sessions.

CASE SUMMARY

Claimant alleges that the Respondents solicited Claimants purchase of Micron Technology, Inc.. Claimant further alleges that Respondents solicited Claimant purchase of Micron without properly notifying Claimant of the risks involved with such a purchase and despite Claimant's stated investment objective of preservation and safety of principal. Additionally, Claimant alleges that Micron was an unsuitable stock in light of Claimant's investment objectives, experience and risk tolerance.

Respondents deny the allegations set forth in the Statement of Claim. Respondents specifically argue that there was reasonable grounds for recommending the purchase of Micron. Respondents further argue that Claimant's purchase was consistent with his stated investment objectives, risk tolerance and previous trading history.

RELIEF REQUESTED

Claimant requested an award of unspecified damages plus interest. Claimant also requested an award of costs including attorney and experts' fees.

Respondents requested that the claims asserted against them be denied in their entirety and that they be awarded costs associated with defense of this case..

OTHER ISSUES CONSIDERED & DECIDED

The parties have agreed that a handwritten, signed Award may be entered. The parties have agreed to receive conformed copies of the award while the original remains on file with NASD Regulation, Inc., Office of Dispute Resolution.

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. Each and every claim of the Claimants is denied.
2. Each side to bear their own costs.

FORUM FEES

Forum fees are calculated at the rate of \$400 per hearing session and \$300 for each prehearing conference, if any. There were 4 sessions x \$400 plus 2 pre-hearing conferences x \$300 = \$2,200 in forum fees. Pursuant to Rule 10332(b) of the NASD Regulation, Inc., Office of Dispute Resolution Code of Arbitration Procedure (the "Code"), a hearing session is any meeting between

the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four (4) hours or less. Pursuant to Rule 10332(c) of the Code of Arbitration Procedure, Claimant is assessed all forum fees.

Total Fees	
4 Hearing Sessions @ \$400.00 =	\$1,600.00
2 Pre-Hearing Conf. @ \$300.00 =	\$ 600.00
Total	<u>\$2,200.00</u>

Forum Fees	\$2,200.00
Claimant's credit for deposit	<u>\$ 400.00</u>
Claimant's balance	\$1,800.00

Pursuant to Rule 10332(c) of the Code, NASD Regulation, Inc. shall retain the non-refundable filing fee in the amount of \$120 and shall retain as forum fees the hearing session deposit in the amount of \$400 previously deposited with NASD Regulation, Inc. by the Claimant James D. Reiter.

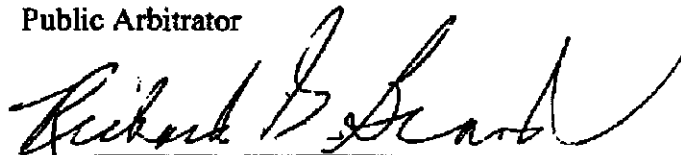
Pursuant to Rule 10333 of the Code, the NASD shall retain the member surcharge fee in the amount of \$200 previously paid by Merrill Lynch, Pierce, Fenner & Smith, Inc.

Fees are payable to the NASD, Regulation, Inc.

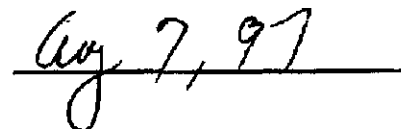
Dated:

William R. Newsome, Esq.
Public Arbitrator, Presiding Chair

George Hubner
Public Arbitrator



Richard G. Brand
Industry Arbitrator



Aug 7, 97

Date served: 8/12/1997

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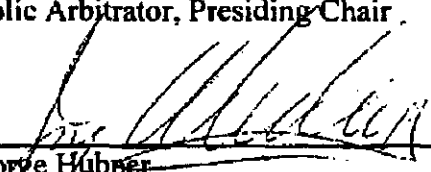
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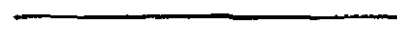
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