

PHILADELPHIA STOCK EXCHANGE, INC.

In the Matter of Arbitration Between :  
:  
Robert B. Kurtz, : Decision  
Claimant : Public Customer Small  
v. :  
: Claim File #97-01  
Merrill Lynch, Pierce, Fenner & :  
Smith Inc., :  
Respondent :  
:

Claimant filed a Statement of Claim and notarized Submission Agreement with the Philadelphia Stock Exchange ("Exchange") which was received by the Exchange on March 5, 1997. Claimant alleged a breach of Fiduciary Duty and a Breach of Contract with respect to annual service fees charged to his WCMA account. Claimant sought to recover damages in excess of \$193.00 plus interest, arbitration fees and costs.

Respondent's Answer/Motion to Dismiss were received by the Exchange on April 23, 1997.

Preliminary hearings on June 3, 1997 and July 30, 1997 were held to resolve discovery issues and to issue rulings on Respondent's Motion to Dismiss. The hearing on the merits was held on September 22, 1997 in Philadelphia, Pennsylvania. Cynthia Turner presided as the appointed and confirmed arbitrator herein.

After having reviewed the submissions, and after having heard the proofs of the parties, the arbitrator has determined that Claimant has failed to prove his case, hence, the Statement of Claim is hereby Denied. The Respondent has made a concession that the \$30.00 annual charge to Claimant's SEP account will be credited to his account for the years of 1994, 1995, 1996 and 1997 to date. Respondent has guaranteed that such charge shall remain \$30.00 per year for so long as Claimant maintains such account until Respondent changes such amount in accordance with the contract.

Costs in the amount of \$300.00 have been equally assessed between the parties. Each party is to remit \$150.00 made payable to the Philadelphia Stock Exchange, Inc., and to be forwarded to the attention of the Arbitration Department (Claimant is credited with the \$15.00 initial deposit fee and must remit \$135.00).

Respectfully Submitted,

Dated: 10/13/97

Cynthia Turner  
Panel Chairperson