

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimant

Opal W. Nelson

Case No. 99-00732

Name of Respondent

Merrill Lynch, Pierce, Fenner & Smith, Inc.

REPRESENTATION OF PARTIES

For Opal W. Nelson ("Nelson"), hereinafter referred to as "Claimant": Pat Huddleston, III, Esq. of the law firm of Dawson & Huddleston, Atlanta, Georgia from October 27, 1999 until his withdrawal on January 26, 2000. Thereafter, Claimant appeared pro se.

For Merrill Lynch, Pierce, Fenner & Smith, Inc., ("Merrill"), hereinafter referred to as "Respondent": Terry R. Weiss, Esq. of the law firm of Long Aldridge & Norman, Atlanta, Georgia.

CASE INFORMATION

Statement of Claim filed on or about: February 12, 1999.

Letter dated April 21, 1999 from Claimant to NASD Dispute Resolution, Inc. filed.

Amendment to Statement of Claim filed on or about: September 29, 1999.

Claimant signed the Uniform Submission Agreement: May 4, 1999.

Statement of Answer filed by Respondent on or about: August 4, 1999.

Respondent did not file an executed Uniform Submission Agreement.

CASE SUMMARY

Claimant asserted the following: Respondent made misrepresentations to Claimant; failed to keep Claimant informed concerning her account; churned Claimant's account; engaged in conversion in Claimant's account; and executed transactions in Claimant's account without her authorization.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following: Claimant's Statement of Claim asserted claims against Respondent solely relating to transactions and other events which allegedly occurred between 1983 and 1988. Therefore, even assuming these claims have any factual

truth, they are ineligible for arbitration pursuant to Rule 10304 of the NASD-DR Code of Arbitration Procedure (the "Code") because they allegedly arise from occurrences or events more than six years prior to the filing of a Statement of Claim.

In addition to being ineligible for arbitration under Rule 10304 of the Code, Respondent maintained that the claims asserted by Claimant lack factual and legal merit. In addition, Respondent contended the Statement of Claim is devoid of any viable claim of wrongdoing by Respondent or any of its representatives, and should be denied.

RELIEF REQUESTED

Claimant requested compensatory damages in the sum of \$3,591,878.34 plus punitive damages in the sum of \$1,408,121.66.

Respondent requested that the panel dismiss all claims and direct Claimant to pay all forum fees.

OTHER ISSUES CONSIDERED AND DECIDED

Respondent Merrill did not file with NASD Dispute Resolution, Inc. a properly executed submission to arbitration but is required to submit to arbitration pursuant to the Code and, having answered the claim, and appeared and participated in the pre-hearing conferences, is bound by the determination of the Panel on all issues submitted.

On or about August 9, 2000, Respondent filed a Motion to Dismiss. Claimant did not file a response. On or about August 28, 2000, the arbitration panel issued an Order which granted the Motion to Dismiss.

AWARD

After considering the pleadings and the Motion to Dismiss, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

The Panel has considered all of the pleadings filed in this case and the matters set forth in Respondent's Motion to Dismiss. Further, the Panel has reviewed the Order dated August 7, 2000 rendered by the United States District Court for the Middle District Court of Georgia in Merrill Lynch, Fenner & Smith, Inc. v. Opal W. Nelson, C.A. No. 5:99-CV-261-4(WDO). The Panel's review of the Claimant's Statement of Claim and other pleadings filed by Claimant shows that all of the claims asserted involve transactions between 1983 and 1988. In accordance with Rule 10304 of the Code and in conformity with the Order of the United States District Court for the Middle District of Georgia, the Panel dismisses Claimant's Statement of Claim with prejudice as to all claims asserted beyond the time provided in Rule 10304, which the Panel has concluded is all claims set forth in the Statement of Claim. However, to the extent the Claimant may have eligible claims within Rule 10304, such claims, if any, are dismissed without prejudice and Claimant shall have leave to refile a

Statement of Claim only with respect to eligible claims.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Dispute Resolution, Inc. will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$250.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. In this matter, the member firm is a party.

Member surcharge = \$2,500.00

Pre-hearing process fee = \$600.00

Hearing process fee = \$4,500.00

Adjournment Fees

No adjournments were requested during these proceedings.

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Forum Fees and Assessments

The Arbitrator assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Forum Fees and Assessments

One Pre-hearing session with a single arbitrator x \$300.00 = \$300.00
Pre-hearing conference: August 10, 2000 1 session

One Pre-hearing session with Panel x \$1,000.00 = \$1,000.00
Pre-hearing conference: April 12, 2000 1 session

Total Forum Fees = \$1,300.00

The Panel has assessed \$650.00 of the forum fees to Claimant.
The Panel has assessed \$650.00 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services including, but not limited to, additional copies of arbitrator awards beyond those provided without charge, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Respondent incurred administrative costs of \$1.00 representing the fee for copies of

documents from the file.

Fee Summary

Claimant be and hereby is solely liable for:

Initial Filing Fee	= \$250.00
Forum Fees	= \$650.00
Total Fees	= \$900.00
<u>Less payments</u>	<u>= \$520.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$380.00

Respondent be and hereby is solely liable for:

Member Fees	= \$7,600.00
Forum Fees	= \$650.00
<u>Administrative Costs</u>	<u>= \$1.00</u>
Total Fees	= \$8,251.00
<u>Less payments</u>	<u>= \$7,601.00</u>
Balance Due NASD Dispute Resolution, Inc.	= \$650.00

All balances are due and payable to NASD Dispute Resolution, Inc.

Concurring Arbitrators' Signatures

/s/
Roger A. Kirschenbaum, Esq.
Public Arbitrator, Presiding Chair

Signature Date

/s/
Kendall P. Hill
Public Arbitrator

Signature Date

/s/
B. David Jarashow, Esq.
Industry Arbitrator

Signature Date

September 28, 2000
Date of Service (For NASD-DR office use only)

documents from the file.

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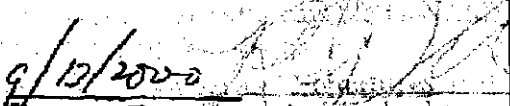
Roger A. Kirschenbaum, Esq.
Public Arbitrator, Presiding Chair

Kendall P. Hill
Public Arbitrator

B. David Jarashow, Esq.
Industry Arbitrator

Date of Service (For NASD-DR office use only)

Concurring Arbitrators' Signatures



Signature Date 9/13/2000 Roger A. Kirschenbaum,
Public Arbitrator, Presiding Chair

Signature Date Kendall P. Hill

Signature Date B. David Jarashow

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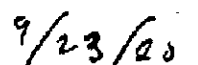
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Public Arbitrator, Presiding Chair


Kendall P. Hill
Public Arbitrator

B. David Jarashow, Esq.
Industry Arbitrator

Date of Service (For NASD-DR office use only)

Concurring Arbitrators'
Signature Date of A. Kirschenbaum,
Public Arbitrator, Presiding


9/23/00
Signature Date

Signature Date

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Public Arbitrator, Presiding Chair

Signature Date

Kendall P. Hill
Public Arbitrator

Signature Date

B. David Jarashow, Esq.
Industry Arbitrator

Signature Date

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