

Award
NASD Regulation, Inc.

In the Matter of the Arbitration Between

Names of Claimants

Brian and Deborah Lynn

Case No. 99-00941

Names of Respondents

Merrill Lynch Pierce Fenner & Smith, Inc.
Randi Sue Grossman

REPRESENTATION OF PARTIES

Claimants appeared pro se.

For Respondents Merrill Lynch Pierce Fenner & Smith, Inc. ("Merrill") and Randi Sue Grossman ("Grossman"): Charles L. Henderson, Esq. of Merrill Lynch Pierce Fenner & Smith, Inc., New York, New York.

CASE INFORMATION

Statement of Claim filed on: March 1, 1999.

Claimants' Uniform Submission Agreement signed on: March 1, 1999.

Joint Statement of Answer filed by Respondents on: April 12, 1999.

Respondent Merrill's Submission Agreement/Corporate Acknowledgment signed on: April 9, 1999 by Robert E. Goldberg, Director and Senior Counsel, on behalf of the firm.

Respondent Grossman's Uniform Submission Agreement signed on: April 9, 1999.

CASE SUMMARY

Claimant asserted the following causes of action: violation of Section 517.301 of the Florida Securities and Investor Protection Act; breach of fiduciary duty with respect to all Respondents; and, breach of contract. Claimants maintained that the foregoing causes of action relate to the purchase for their account at Merrill of Cellpro, Inc. by Respondent Grossman.

Unless specifically admitted in their Statement of Answer, Respondents Merrill and Grossman denied the allegations of wrongdoing contained in the Statement of Claim and

asserted the following: Claimant Brian Lynn is a CPA/accountant, who has had multiple accounts with Merrill and Grossman since 1991; that in addition to the Merrill accounts, Claimants have other brokerage accounts outside of Merrill; that Claimant Brian Lynn is an experienced investor; that consistent with Claimants' investment objectives and risk tolerance, Respondent Grossman recommended Cellpro, Inc. common stock to Claimants; and, that Claimant Brian Lynn authorized the purchase of Cellpro, Inc., a high risk stock which was not Claimants' only purchase of a high risk investment.

RELIEF REQUESTED

Claimants requested compensatory damages in the amount of \$18,862.00 plus interest and costs.

Respondents requested a dismissal of the claim and that they be awarded their costs and expenses incurred in the defense of this matter.

OTHER ISSUES CONSIDERED AND DECIDED

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.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Merrill and Grossman are found not liable and, therefore, all claims against them are hereby denied.
2. Claimants' request for costs is hereby denied.
3. Respondents' requests for costs and expenses are hereby denied.
4. All other claims for relief not specifically addressed herein are denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

NASD Regulation, Inc. will retain or collect the non-refundable filing fees for each claim:
Initial claim filing fee = \$75.00

Member Fees

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

Member surcharge = \$400.00

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, including a pre-hearing conference with the arbitrator, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with the arbitrator x \$300.00 = \$300.00
Pre-hearing conference date: June 30, 1999 1 session

Two (2) Hearing sessions x \$300.00 = \$600.00
Hearing date: December 14, 1999 2 sessions
Total Forum Fees = \$900.00

The Arbitrator has assessed \$450.00 of the forum fees to Claimants.

The Arbitrator has assessed \$450.00 of the forum fees jointly and severally to Respondents Merrill and Grossman.

Fee Summary

Claimants be and hereby are solely liable for:

Initial Filing Fee	= \$ 75.00
<u>Forum Fees</u>	<u>= \$450.00</u>
Total Fees	= \$525.00
<u>Less payments</u>	<u>= \$375.00</u>
Balance Due NASD Regulation, Inc.	= \$150.00

Respondent Merrill be and hereby is solely liable for:


Member Fees	= \$400.00
Total Fees	= \$400.00
<u>Less payments</u>	<u>= \$400.00</u>
Balance Due NASD Regulation, Inc.	= \$ 00.00

Respondents Merrill and Grossman be and hereby are jointly and severally liable for:

<u>Forum Fees:</u>	<u>= \$450.00</u>
Balance Due NASD Regulation, Inc.	= \$450.00

All balances are due and payable to NASD Regulation, Inc.

Concurring Arbitrator's Signature


Frances D. Sheehy, Esq.
(Sole Public Arbitrator)

1-24-00
Signature Date

Date of Service (For NASD office use only)