

Award
NASD Dispute Resolution, Inc.

In the Matter of the Arbitration Between

Name of Claimants

Gerald and Connie Steinberg

Case No. 99-05231

Name of Respondent

Merrill Lynch Pierce Fenner & Smith Inc

Hearing Location: Washington, DC

REPRESENTATION OF PARTIES

Claimants Gerald and Connie Steinberg ("Claimants") were represented by Allen Mansfield, Esq., Washington, DC.

Respondent Merrill Lynch Pierce Fenner & Smith, Inc. ("Respondent") was represented by Todd Zuckerbrod, Esq., Office of the General Counsel, Merrill Lynch Pierce Fenner & Smith, Inc. New York, NY.

CASE INFORMATION

Statement of Claim was filed on November 16, 1999.

Claimants Gerald and Connie Steinberg's Uniform Submission Agreement was executed by Allen Mansfield acting under Power of Attorney on November 15, 1999. Power of Attorney was granted to Mr. Mansfield by Claimants on December 27, 1998.

Statement of Answer was filed by Respondent on March 14, 2000.

Respondent's Uniform Submission Agreement was executed by Todd Zuckerbrod, Merrill Lynch Pierce Fenner & Smith on March 13, 2000.

CASE SUMMARY

Claimants alleged, among other things, the following causes of action: misrepresentation, failure to disclose material facts, false representations, unsuitability, breach of fiduciary duty.

In their Statement of Claim, Claimants alleged that in 1983 they met with one of

Respondent's brokers and asked her to recommend a long-term, low-risk investment. The broker suggested MRI Business Property Fund, Inc. ("MRI") Claimants alleged that they were pressured to buy 20 shares of MRI immediately and were told that this investment opportunity would close shortly. Claimants alleged that they received an advertising brochure for MRI in lieu of a prospectus, and, therefore, did not have the opportunity to evaluate the investment for themselves. Claimants alleged that through November 30, 1991, Respondent's monthly statements listed the market value of the shares as \$20,000, but that 2 months later, the value of MRI was listed as "unavailable." Claimants further stated that they were informed by a representative of Respondent that the change in listed value was "technical" and did not alter the real value of the shares. Claimants alleged that they were told to hold on to the MRI shares.

In October 1994, Claimants received an offer from DeForest Ventures 1 L.P. to purchase the MRI shares at 10% of their original market value. Claimants state that it was then that they learned that Respondent's representations about the value of the shares was false and that the real value of the shares was 10% of the original purchase price.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted the following defenses: the Statement of Claim failed to state a claim for which relief can be granted; Claimants are estopped from asserting the claims set forth in the Statement of Claim due to their own acts and conduct; Claimants, acting with full knowledge of the facts, ratified, approved, accepted, acquiesced in and confirmed in all respects the acts complained of in the Statement of Claim and Claimants failed to mitigate their alleged damages, if any.

Respondent asserted that its representative met with Claimants and that Claimants specified wanting a portion of their portfolio set up for long-term aggressive growth. This representative also recalls giving Claimants a copy of the MRI prospectus prior to their investment, that she discussed in detail the risks association with MRI and that she made no misrepresentations to Claimants with respect to MRI.

RELIEF REQUESTED

Claimants, in their Statement of Claim, requested:

Compensatory Damages	\$20,000
Punitive Damages	\$10,000

Respondent requested that Claimants' claim be dismissed and that Claimants be assessed the costs of the proceedings.

OTHER ISSUES CONSIDERED AND DECIDED

Both parties appeared through Counsel. Claimant Gerald Steinberg testified by telephone.

Respondent, incorporated a Motion to Dismiss in its Answer. This Motion was granted in part and denied in part by Order dated February 6, 2001 and granted in full on March 1, 2001.

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, and the testimony and evidence presented at the hearing, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. That Claimants' claim is denied in its entirety.

2. That Claimants' claim for punitive damages is denied in its entirety.

3. That the parties shall bear their respective costs and fees except as Fees are specifically addressed below.

4. That any and all claims for relief not specifically addressed herein are denied in their entirety.

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 = \$150

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 = \$ 600
Pre-hearing process fee = \$ 600
Hearing process fee = \$1,000

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:

1 Pre-hearing session with a single arbitrator x \$450 == \$450
October 17, 2000 1 session

1 Hearing sessions x \$450 == \$450
March 1, 2001 1 session

Total Forum Fees == \$900

The Arbitrator has assessed 50% (\$450) of the forum fees to Claimant.

The Arbitrator has assessed 50% (\$450) of the forum fees to Respondent.

Fee Summary

Claimants are assessed the following fees:

Initial Filing Fee	= \$150
Forum Fees	= \$450
<u>Total Fees</u>	<u>= \$600</u>
<u>Less payments</u>	<u>= \$600</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 0

Respondent is assessed the following fees:

Member Fees	= \$2,200
Forum Fees	= \$ 450
<u>Total Fees</u>	<u>= \$2,650</u>
<u>Less payments</u>	<u>= \$2,200</u>
Balance Due NASD Dispute Resolution, Inc.	= \$ 450

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Arbitrator's Signature

Harvey A. Levin

Harvey A. Levin

Public Arbitrator, Presiding Arbitrator

4/18/01

Signature Date

4/20/01

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

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