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AWARD
NASD REGULATION, INC.

In the Matter of the Arbitration Between Jannine Del Muro, Claimant
v.
James Neunuebel and Merrill Lynch Pierce Fenner & Smith, Respondents

CASE NO. 03-03089, Chicago, Illinois

2004 NASD Arb. LEXIS 1635

July 27, 2004

COUNSEL:

[*1] Jannine Del Muro ("Claimant") was represented by Alan Block, Esq. of **Block and Landsman**, located in Bruce Chicago, Illinois. James Neunuebel, ("Neunuebel"), and Merrill Lynch Pierce Fenner & Smith, ("Merrill Lynch"), Hereinafter referred to as ("Respondents") were represented by Peter Cooper, Esq. of Lawrence, Kamin, Saunders & Uhlenhop, located in Chicago, Illinois.

CASE-INFORMATION:

Nature of the Dispute: Customers v. Member firm and Associated Person.
Claimant filed her Statement of Claim on or about April 28, 2003.
Claimant signed a Uniform Submission Agreement on or about May 6, 2003.
Respondents filed the Joint Statement of Answer on or about July 31, 2003.
Respondent Merrill Lynch signed a Uniform Submission Agreement on May 10, 2004.
Respondent Neunuebel signed a Uniform Submission Agreement on May 7, 2004.

CASE-SUMMARY:

Claimant alleged as follows: Negligence; breach of fiduciary duty, unsuitable investments, and consumer fraud. Claimant's causes of action are in connection with technology related common stock.

Unless specially admitted in their Statement of Answer, Respondents denied the allegations in the Statement of Claim and submitted the following affirmative defenses; Claimant failed to mitigate her [*2] damages; Claimant ratified all trades entered in her account; Merrill Lynch acted in good faith and cannot be held liable as a control person; and, after being fully informed, Claimant followed and expressly agreed with the recommended investments.

RELIEF-REQUESTED:

Claimant requested an award in the amount of \$ 571,000.00 in actual damages, reasonable attorneys' fees and costs.

Respondents requested that the claims asserted against them be dismissed in their entirety, that they be awarded costs of defense of this action, including reasonable attorneys' fees, filing fees and costs. Respondent Neunuebel requested that all references to the above captioned arbitration be expunged from his registration records maintained by the NASD Central Registration Depository ("CRD").

OTHER-ISSUES:

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. In either case, the parties have agreed to receive conformed copies of the award while the

original remains on file with ("NASD").

The Panel unanimously denied Neunuebel's expungement request.

AWARD:

After considering the pleadings, the testimony, and the evidence presented at the hearing the undersigned [*3] arbitrators have decided in full and final resolution of the issues submitted for determination as follows:

1. Respondents Merrill Lynch Pierce Fenner & Smith and James Neunuebel are jointly and severally liable and shall pay to Claimant Jannine Del Muro the sum of \$ 150,000.00 in compensatory damages;
2. Respondent James Neunuebel's expungement request is hereby denied;
3. That to the extent not specifically awarded or otherwise provided for above, all other claims and requests for relief by any party hereto are denied with prejudice; and,
4. Other than the Forum Fees noted below, the parties shall each bear all other costs and expenses incurred by them in connection with this proceeding, including but not limited to attorneys fees, not specifically awarded or otherwise provided for above.

FORUM-FEES:

Pursuant to the Code, the following fees are assessed:

Filing Fees

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

Initial claim filing fee = \$ 375.00

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 [*4] event giving rise to the dispute. In this matter, the member firm is Merrill Lynch.

Member surcharge	\$ 2,250.00
Pre-hearing process fee	\$ 750.00
Hearing process fee	\$ 4,000.00
Total Member Fees	\$ 7,000.00

Forum Fees and Assessments

The Panel assesses forum fees for each hearing session conducted. A hearing session is any meeting between the parties and the arbitrators, 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	x	\$ 1,200.00
	Panel		
			1,200.00

	December 5, 2003	1 session	
Three (3) Hearing sessions		x	1,200.00 \$ 3,600.00
	July 20, 2004	3 sessions	\$
	Total Forum Fees		\$ 4,800.00

The Panel has assessed \$ 2,400.00 of the forum fees to Respondents Merrill Lynch and Neunuebel jointly and severally.

The Panel has assessed \$ 2,400.00 of the forum fees to Claimant.

FEE SUMMARY

Claimant, Jannine Del Muro, shall be and hereby is liable for:

Initial Filing Fee	= \$ 375.00
Forum Fee	= \$ 2,400.00
Total Fees	= \$ 2,775.00
Less payments	= \$ -1,575.00
Balance Due NASD Dispute Resolution	= \$ 1,200.00

[*5]

Respondent Merrill Lynch shall be and hereby is solely liable for:

Member Fees	= \$ 7,000.00
Total Fees	= \$ 7,000.00
Less payments	= \$ 7,000.00
Balance Due NASD Dispute Resolution	= \$ 00

Respondents Merrill Lynch and Neunuebel are jointly and severally liable for:

Forum Fees	= \$ 2,400.00
Less payments	= \$.00
Balance Due NASD Dispute Resolution	= \$ 2,400.00

All balances are due to NASD Dispute Resolution

ARBITRATORS:

Concurring Arbitrators: Leon Fox, J.D., Public Arbitrator, Presiding Chair; Gregory G. Gocek, Public Arbitrator; Doris H. Geck, Non-Public Arbitrator