

Ex-Merrill Broker Wins Judgment

- By Don Bauder The San Diego Union Tribune November 2, 2002

As San Diego investors continue to pursue arbitration claims against Dean L. Welsh and his former employer, Merrill Lynch, Welsh has notched one victory: He has won a \$200,000 arbitration judgment against Merrill Lynch.

In February of this year, I reported in two separate columns that a number of investors were going into arbitration against Welsh and Merrill Lynch, largely because he allegedly executed trades without the investors' permission, put them in margin accounts without explaining what margin meant, and also put them into unsuitable, speculative stocks.

The major stock was Fremont-based Mattson Technology. Welsh was in love with that stock - so much so that he bought a new Porsche with the vanity plates, "THXMTSN," or "Thanks Mattson."

After hitting \$46.36 a share in May 2000, the stock went downhill. It closed yesterday at \$2.28, up 28 cents.

Merrill fired Welsh in September 2001, only nine days after 9/11, when the market was in turmoil.

Merrill's records indicate Welsh was "terminated after the firm learned that he exercised discretion in several clients' accounts without the necessary power of attorney on file. "

Welsh filed for arbitration against the big firm. Welsh's attorney, Erwin J. Shustak, says that a new manager in Merrill's Carlsbad office fired Welsh so that he could distribute Welsh's clients to other brokers at the office.

"All customer complaints arose after Welsh was terminated and the brokers and branch manager stirred the pot by contacting Welsh's former clients, denigrating Welsh and criticizing the manner in which Welsh handled their accounts," says Shustak. Then, Merrill lawyers threatened to sue Welsh if he attempted to contact his former clients, says Shustak.

Among other things, Welsh said he had been wrongfully terminated, Merrill had put defamatory information into his personnel file and had recklessly inflicted emotional distress upon him.

He was awarded \$200,000.

Says Mark Herr, a Merrill spokesman in New York, "Clearly we are disappointed in the arbitration panel's ruling, but Mr. Welsh had sought in excess of \$2 million plus punitive damages, so to award \$200,000 is a recognition his claims weren't as much as he made them out to be."

San Diego attorneys are going ahead with their arbitrations. James Krause is pressing ahead on behalf of four investors with complaints. "None of our clients were called as witnesses," says Krause. "How can arbitrators find that Welsh had not done unauthorized trades without talking to customers? I represent a lady in her 80s in a wheelchair, and (Welsh) did all kinds of trades for her, and never called her." The woman would have testified, says Krause.

"Until Merrill Lynch and Dean Welsh give us the entire files relating to Welsh's arbitration against Merrill Lynch, we do not know how it will affect the case," says attorney Jeffrey P. Lendrum, who

represents three individuals who lost heavily in Mattson stock.

"We're pursuing Mr. Welsh and Merrill Lynch in connection with massive unauthorized trading in Mattson and other stocks," says attorney Bradd Milove, who has two cases. "The claims also arise from unauthorized institution of huge margin debt balances."

Michael McColloch, a Carlsbad attorney who represents Welsh in the arbitrations, says his client is now employed, but not in the securities industry. As to Welsh's emotional state, "he's doing his best to get on with his life," says McColloch.

The lawyer says that Welsh's actions with Merrill Lynch were appropriate, and he is fighting the arbitration claims. "Mr. Welsh's arbitration against Merrill Lynch is vindication of Mr. Welsh and the correctness of the actions that he took," says McColloch.

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